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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

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

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

WHEN: Tuesday, 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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Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.
To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 72, No. 40
Thursday, March 1, 2007

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

2 CFR Part 376

45 CFR Parts 74 and 76

Department of Health and Human Services' Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

AGENCY: Department of Health and Human Services.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of Health and Human Services (HHS or the Department) is issuing a new part 376 on nonprocurement debarment and suspension in Title 2 the Code of Federal Regulations (CFR). This new part is HHS's implementation of OMB's guidance provided at 2 CFR part 180. HHS is removing 45 CFR part 76, the part containing its implementation of the government-wide common rule on nonprocurement debarment and suspension. The new part in 2 CFR serves the same purpose as the common rule, but in a simpler way. This interim final rule is part of OMB's initiative to streamline and consolidate all federal regulations on nonprocurement debarment and suspension. It is an administrative simplification that would make no substantive change in HHS policy or procedures for nonprocurement debarment and suspension.

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

Comment Date: April 2, 2007.

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

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

E-mail: to *Nancy.Weisman@hhs.gov.* Please state ''2 CFR part 376'' on the subject line or mail: Nancy Weisman, HHS Office of Grants Policy, Oversight and Evaluation, Room 336–E, 200 Independence Ave., SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Nancy Weisman at (202) 260–4573, or by e-mail at [*Nancy.Weisman@hhs.gov*].

SUPPLEMENTARY INFORMATION:

I. Background

On August 31, 2005, OMB issued interim final Guidance for Government-wide Debarment and Suspension (Nonprocurement), codified in part 180 of Title 2 of the CFR (70 FR 51862). In addition to restating and updating its guidance on nonprocurement debarment and suspension, the interim final guidance requires all Federal agencies to adopt a new approach to federal agency implementation of the guidance. OMB requires each agency to issue a brief rule that: (1) Adopts the guidance, giving it regulatory effect for that agency's activities; and (2) states any agency-specific additions, clarifications, and exceptions to the government-wide policies and procedures contained in that guidance.

That guidance also requires agencies to implement the OMB guidance by February 28, 2007. Pursuant to the requirements in OMB's guidance, the Department will: (1) Establish Chapter 3 in Subtitle B of Title 2 CFR for HHS regulations on grants and agreements; (2) remove 45 CFR part 76 containing the full text of the Department's debarment and suspension common rule; (3) replace 45 CFR part 76 with a brief new part 376 that adopts OMB's guidance at 2 CFR part 180 and adds provisions specific to HHS; (4) co-locate the Department's new part 376 with OMB's guidance in 2 CFR along with other agencies' regulations in that title; and (5) revise the reference in 45 CFR 74.13 to reflect the new citation to the Department's nonprocurement debarment and suspension regulations now located at 2 CFR part 376.

II. Invitation To Comment

This new part in 2 CFR adopts the OMB guidelines with the same additions and clarifications we made to the common rule on nonprocurement debarment and suspension in the **Federal Register** publication of November 26, 2003 (68 FR 66630). In soliciting comments on this action, we are not seeking to revisit substantive issues that were already resolved during the preparation of that final common rule. Because we intend the new part to make no changes in current HHS policies and procedures, we specifically invite comments on any unintended changes in substantive content that the new part in Title 2 CFR would make relative to the November 2003 common rule at 45 CFR part 76.

III. Procedural Review Requirements

A. Executive Order 12866, Regulatory Planning and Review

HHS has determined that 2 CFR part 376 is not a significant regulatory action.

B. Regulatory Flexibility Act

HHS certifies this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act [5 U.S.C. 605(b)].

Therefore, no regulatory flexibility statement has been prepared. Since this rule relocates existing HHS nonprocurement and debarment policies or procedures and does not promulgate any new policies and procedures that would impact the public, it has been determined that this rule will not have a significant economic effect on a substantial number of small entities, and, thus, a regulatory flexibility analysis was not performed.

C. Unfunded Mandates Reform Act

HHS has determined that 2 CFR 376 does not contain a Federal mandate under 2 U.S.C. 1501(7) that may result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

D. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 35, does not apply because the issuance of 2 CFR part 376 does not impose any new reporting or recordkeeping requirements that require approval by OMB.

E. Executive Order 13132, Federalism

This regulation does not have federalism implications, as set forth in Executive Order 13132. This regulation does not have substantial direct effects

on the states, the relationship between the Federal Government and the states, or the distribution of power and responsibilities among the various levels of government.

List of Subjects

2 CFR Part 376

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

45 CFR Part 74

Accounting, Colleges and universities, Grant programs, Hospitals, Indians, Intergovernmental relations, Nonprofit organizations, Reporting and recordkeeping requirements.

45 CFR Part 76

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

Dated: February 26, 2007.

Michael O. Leavitt,

Secretary.

■ Accordingly, under the authority of 5 U.S.C. 301; 31 U.S.C. 6101 (note); E.O. 12689 (3 CFR, 1989 Comp., p. 235); E.O.12549 (3 CFR, 1986 Comp., p. 189); E.O. 11738 (3 CFR, 1973 Comp., p. 799), the Department of Health and Human Services publishes the following amendments to the Code of Federal Regulations, Title 2, Subtitle B, and Title 45, Chapter I, as set forth below.

Title 2—Grants and Agreements

■ Add Chapter III in Subtitle B of Title 2 CFR where HHS grants and agreement rules will appear. With this regulatory action, Chapter III will consist of Part 376, to read as follows:

CHAPTER III—DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 376—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 (note); E.O. 12689 (3 CFR, 1989 Comp., p. 235); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 11738 (3 CFR, 1973 Comp., p. 799).

§ 376.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Health and Human Services (HHS or Department) policies and procedures for nonprocurement debarment and suspension. HHS thereby gives regulatory effect to the OMB guidance as supplemented by this part. This part satisfies the requirements in 2 CFR 180.20, section 3 of Executive Order 12549, ''Debarment and Suspension'' (3 CFR 1986 Comp., p. 189), Executive Order 12689, ''Debarment and Suspension'' (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 376.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)), apply to you if you are a—

(a) Participant or principal in a ''covered transaction'' under subpart B of 2 CFR part 180, as supplemented by this part, and the definition of nonprocurement transaction'' at 2 CFR 180.970.

(b) Respondent in HHS suspension or debarment action;

(c) HHS debarment or suspension official;

(d) HHS grants officer, agreements officer, or other HHS official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 376.30 What policies and procedures must I follow?

The policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180, including the corresponding section that HHS published in 2 CFR part 376 identified by the same section number. The contracts under a nonprocurement transaction, that are covered transactions, for example, are specified by section 220 of the OMB guidance (*i.e.*, 2 CFR 180.220) as supplemented by section 220 in this part (*i.e.*, 2 CFR 376.220). For any section of OMB guidance in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, HHS policies and procedures are those in the OMB guidance at 2 CFR part 180.

Subpart A—General

§ 376.137 Who in the Department of Health and Human Services may grant an exception to let an excluded person participate in a covered transaction?

The HHS Debarring/Suspension Official has the authority to grant an exception to let an excluded person participate in a covered transaction as provided at 2 CFR 180.135.

§ 376.147 Does an exclusion from participation in Federal health care programs under Title XI of the Social Security Act affect a person's eligibility to participate in nonprocurement and procurement transactions?

Any individual or entity excluded from participation in Medicare, Medicaid, and other Federal health care programs under Title XI of the Social Security Act, 42 U.S.C. 1320a–7, 1320a–7a, 1320c–5, or 1395ccc, and implementing regulation at 42 CFR part 1001, will be subject to the prohibitions against participating in covered transactions, as set forth in this part and part 180, and is prohibited from participating in all Federal government procurement programs and nonprocurement programs. For example, if an individual or entity is

excluded by the HHS Office of the Inspector General from participation in Medicare, Medicaid, and/or other Federal health care programs, in accordance with 42 U.S.C. 1320a–7, then that individual or entity is prohibited from participating in all Federal government procurement and nonprocurement programs (42 CFR part 1001).

Subpart B—Covered Transactions

§ 376.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part also applies to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c). (See optional lower tier coverage in the diagram in the Appendix to 2 CFR part 180.)

Subpart C—Responsibilities of Participants Regarding Transactions

§ 376.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

To communicate the requirements to lower-tier participants, you must include a term or condition in the lower-tier transaction requiring the lower-tier participant's compliance with 2 CFR part 180, as supplemented by this subpart.

§ 376.370 What are the obligations of Medicare carriers and intermediaries?

Because Medicare carriers, intermediaries and other Medicare contractors undertake responsibilities on behalf of the Medicare program (Title XVIII of the Social Security Act), these entities assume the same obligations and responsibilities as the HHS Medicare officials responsible for the Medicare Program with respect to actions under 2 CFR part 376. This would include the requirement for these entities to check the Excluded Parties List System (EPLS) and take necessary steps to effect this part.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 376.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by Subpart C of this part, and require the participant to include a similar term or condition in lower-tier covered transactions.

Subpart E—Excluded Parties List System [Reserved]

Subpart F—General Principles Relating to Suspension and Debarment Actions [Reserved]

Subpart G—Suspension [Reserved]

Subpart H—Debarment [Reserved]

Subpart I—Definitions

§ 376.935 Disqualified. (HHS supplement to government-wide definition at 2 CFR 180.935).

Disqualified means persons prohibited from participating in specified federal procurement and nonprocurement transactions pursuant to the statutes listed in 2 CFR 180.935, and pursuant to Title XI of the Social Security Act (42 U.S.C. 1320a–7, 1320a–7a, 1320c–5, and 1395ccc) as enforced by the HHS Office of the Inspector General.

§ 376.995 Principal (HHS supplement to government-wide definition at 2 CFR 180.995).

Principal means individuals, in addition to those listed at 2 CFR 180.995, who participate in HHS covered transactions including:

(a) Providers of federally required audit services; and

(b) Researchers.

Subpart J—[Reserved]

Title 45—Public Welfare

CHAPTER I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 74—[AMENDED]

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 74.13 [Amended]

■ 2. Section 74.13 is amended by revising the citation ''45 CFR part 76'' to read ''2 CFR part 376.''

PART 76—[REMOVED]

■ 3. Remove part 76 from Title 45 CFR.

[FR Doc. 07–946 Filed 2–27–07; 12:05 pm]

BILLING CODE 4150–24–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

2 CFR Part 3369

45 CFR Part 1169

RIN 3136–AA29

Office of the General Counsel; National Endowment for the Humanities Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

AGENCY: National Endowment for the Humanities.

ACTION: Direct final rule.

SUMMARY: The National Endowment for the Humanities (NEH) implements Office of Management and Budget (OMB) guidance on nonprocurement suspension and debarment, issued on August 31, 2005 [70 FR 51863], by adopting the guidelines in a new part in title 2 of the CFR, the Government-wide title recently established for OMB guidance on grants and agreements, and removing 45 CFR part 1169, the part containing the NEH implementation of the government-wide common rule on nonprocurement debarment and suspension. This regulatory action would make no substantive change in NEH policy or procedures for nonprocurement debarment and suspension.

DATES: The effective date for this final rule is April 2, 2007.

FOR FURTHER INFORMATION CONTACT: National Endowment for the Humanities, ATTN: Office of the General Counsel, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506; or Heather Gottry, (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: This final rule implements the OMB guidance and does not make any changes in current policies and procedures. NEH is not soliciting public comment on this rule and is instead issuing this rule as a direct final rule. Under 5 U.S.C. 553(b)(3)(A) agencies are not required to undergo notice and comment procedure for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'' Because this rule adopts OMB's published guidelines, which followed notice and comment procedures, and collocates NEH's specific nonprocurement suspension and debarment rules to title 2 of the CFR, we

believe that it falls under the exception cited above.

Executive Order 12866

This rule is not significant because the replacement of the common rule with OMB guidance and a brief NEH adopting regulation does not make any changes in current policies and procedures.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This regulatory action will not have a significant adverse impact on a substantial number of small entities.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

Federalism (Executive Order 13132)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 2 CFR Part 3369

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

■ Accordingly, under the authority of 20 U.S.C. 959(a)(1), NEH amends title 2, subtitle B, and title 45, chapter 1169, of the Code of Federal Regulations as follows:

Title 2—Grants and Agreements

■ 1. Add Chapter 33 to Subtitle B to read as follows:

CHAPTER 33—NATIONAL ENDOWMENT FOR THE HUMANITIES

PART 3369—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

Authority: 20 U.S.C. 959(a)(1); Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

§ 3369.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) guidance in Subparts A through I of 2 CFR part 180, as supplemented by this part, as the National Endowment for the Humanities (NEH) policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the NEH to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, ''Debarment and Suspension'' (3 CFR 1986 Comp., p. 189), Executive Order 12689, ''Debarment and Suspension'' (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Public Law 103–355, 108 Stat. 3327).

§ 3369.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a ''covered transaction'' (see Subpart B of 2 CFR part 180 and the definition of ''nonprocurement transaction'' at 2 CFR 180.970).

(b) Respondent in a NEH suspension or debarment action.

(c) NEH debarment or suspension official;

(d) NEH grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction;

§ 3369.30 What policies and procedures must I follow?

The NEH policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (*i.e.*, 2 CFR 180.220) as supplemented by section 220 in this part (*i.e.*, § 3369.220). For any section of OMB guidance in Subparts A through I of 2 CFR 180 that has no corresponding section in this part, NEH policies and procedures are those in the OMB guidance.

Subpart A—General

§ 3369.137 Who in the NEH may grant an exception to let an excluded person participate in a covered transaction?

The NEH Chairman has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 3369.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB guidance at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in the Appendix to 2 CFR part 180), NEH does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 3369.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with Subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 3369.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR

180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by Subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subpart E–I—[Reserved]

Title 45—Public Welfare

CHAPTER XI—NATIONAL ENDOWMENT FOR THE HUMANITIES

PART 1169—[REMOVED]

■ 2. Under authority Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235) part 1169 is removed.

Heather Gottry,

Acting General Counsel.

[FR Doc. E7–3548 Filed 2–28–07; 8:45 am]

BILLING CODE 7536–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26356; Directorate Identifier 2006–NM–166–AD; Amendment 39–14963; AD 2007–05–02]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all EMBRAER Model ERJ 170 and ERJ 190 airplanes. This AD requires repetitive detailed inspections for blockage of the pitot drain holes of certain air data smart probes (ADSPs), removing accumulated moisture from the pneumatic passages of the ADSPs, related investigative actions, and corrective actions if necessary. This AD results from reports of erroneous air speed indications caused by blockage of the pitot sensors due to freezing of accumulated moisture in the ADSP pneumatic passages. We are issuing this AD to prevent an erroneous air speed indication, which could reduce the flightcrew's ability to control the airplane.

DATES: This AD becomes effective April 5, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 5, 2007.

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

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all EMBRAER Model ERJ 170 and ERJ 190 airplanes. That NPRM was published in the **Federal Register** on November 20, 2006 (71 FR 67075). That NPRM proposed to require repetitive detailed inspections for blockage of the pitot drain holes of certain air data smart probes (ADSPs), removing accumulated moisture from the pneumatic passages of the ADSPs, related investigative actions, and corrective actions if necessary.

Comments

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

Conclusion

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

Costs of Compliance

This AD affects about 93 airplanes of U.S. registry. The required actions take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $14,880, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–05–02 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–14963. Docket No. FAA–2006–26356; Directorate Identifier 2006–NM–166–AD.

Effective Date

(a) This AD becomes effective April 5, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes; and Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from reports of erroneous air speed indications caused by blockage of the pitot sensors due to freezing of accumulated moisture in the air data smart probe (ADSP) pneumatic passages. We are issuing this AD to prevent an erroneous air speed indication, which could reduce the flightcrew's ability to control 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.

Inspect To Determine Part Number (P/N) of ADSPs

(f) Within 600 flight hours after the effective date of this AD, inspect to determine the part number of the ADSPs. For any Rosemount Aerospace ADSP having P/N 2015G2H2H–4(), 2015G2H2H–5(), 2015G2H2H–6(), or 2015G2H2H–7(), do the applicable actions required by this AD. For any ADSP having any other part number, no further action is required by this AD.

Note 1: The parentheses used in the identified ADSP model part numbers indicate the presence or absence of an additional letter(s), which varies with the basic ADSP model designation. The letter(s) defines minor changes that do not affect interchangeability or eligibility of the ADSP. Therefore, this AD still applies regardless of the presence or absence of these letters on the ADSP model designation.

Detailed Inspection, Moisture Removal, and Related Investigative/Corrective Actions

(g) Within 600 flight hours after the effective date of this AD, perform a detailed inspection for blockage of the pitot drain holes of the ADSP, remove accumulated moisture from the pneumatic passages of the ADSP, and, before further flight, do all related investigative actions and applicable corrective actions. Perform all required actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170–34–0007, dated April 28, 2005 (for Model ERJ 170 airplanes); or EMBRAER Service Bulletin 190–34–0003, dated December 2, 2005 (for Model ERJ 190 airplanes); as applicable. Repeat all required actions thereafter at intervals not to exceed 600 flight hours.

Note 2: EMBRAER Service Bulletins 170–34–0007 and 190–34–0003 refer to Rosemount Aerospace Service Bulletin 2015G2H2H–34–04, Revision 1, dated April 6, 2005, as an additional source of service information for accomplishing the required actions.

Note 3: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(i) Brazilian airworthiness directives 2006–05–05, effective June 14, 2006, and 2006–05–08, effective June 19, 2006, also address the subject of this AD.

Material Incorporated by Reference

(j) You must use EMBRAER Service Bulletin 170–34–0007, dated April 28, 2005; or EMBRAER Service Bulletin 190–34–0003, dated December 2, 2005; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on February 16, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–3363 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25942; Airspace Docket No. 06–ACE–12]

Modification of Class E Airspace; Thedford, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Thedford, NE.

DATES: *Effective Date:* 0901 UTC, May 10, 2007.

FOR FURTHER INFORMATION CONTACT: Grant Nichols, System Support, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; *telephone:* (816) 329–2522.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 11, 2007 (72 FR 1278). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 10, 2007. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Fort Worth, Texas on February 16, 2007.

Walter Tweedy,

Manager, System Support Group, ATO Central Service Area.

[FR Doc. 07–903 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25943; Airspace Docket No. 06–ACE–13]

Modification of Class E Airspace; Phillipsburg, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Phillipsburg, KS.

DATES: *Effective Date:* 0901 UTC, May 10, 2007.

FOR FURTHER INFORMATION CONTACT: Grant Nichols, System Support, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; *telephone:* (816) 329–2522.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on January 18, 2007 (72 FR 2181). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 10, 2007. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Forth Worth, Texas on February 16, 2007.

Walter Tweedy,

Manager, System Support Group, ATO Central Service Area.

[FR Doc. 07–902 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2006–0085]

RIN 0960–AG05

Optometrists as ''Acceptable Medical Sources'' To Establish a Medically Determinable Impairment

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising the Social Security and Supplemental Security Income (SSI) disability regulations regarding sources of evidence for establishing a medically determinable impairment under titles II and XVI of the Social Security Act (the Act). The revised regulations expand the situations in which we consider licensed optometrists to be ''acceptable medical sources.''

DATES: These rules are effective April 2, 2007.

FOR FURTHER INFORMATION CONTACT: Art Spencer, Director, Office of Disability Evaluation Policy, Social Security Administration, 4465 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–5766 or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet Web site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

What is an ''acceptable medical source?''

Our rules provide that you must show that you have a medically determinable impairment with evidence from an ''acceptable medical source.'' An ''acceptable medical source'' is an individual who has the training and expertise to provide us with the signs and laboratory findings based on medically acceptable clinical and laboratory diagnostic techniques that establish a medically determinable physical or mental impairment. Our regulations identify professionals whom we consider to be ''acceptable medical sources.'' (See §§ 404.1513(a) and 416.913(a).) In our prior rules, these sections provided that a licensed optometrist was an ''acceptable medical source,'' but only for the measurement of visual acuity and visual fields. They further indicated that, for claims under title II, we might need a report from a physician to determine other aspects of eye diseases.

Our rules in §§ 404.1513(d) and 416.913(d) provide that, once we have established that you have a medically determinable impairment, we consider all other relevant evidence from other medical and non-medical sources, including your own statements, to determine its severity and how it affects you.

Why are we changing our rules?

In the early 1990s, we discussed expanding the role of optometrists as ''acceptable medical sources'' with the American Optometric Association (AOA). However, because licensing requirements and scope of practice varied considerably among jurisdictions at that time, we found that it was not feasible for us to revise our policy.

More recently, we again met with representatives of the AOA and obtained information about the education, qualifications, and State scope-of-practice requirements related to optometrists. Based on our review of accreditation and practice requirements, we have determined that, with the exception of the U.S. Virgin Islands, the licensing requirements, scope of treatment, and diagnostic protocols for licensed optometrists are sufficient to qualify all licensed optometrists as ''acceptable medical sources'' for visual disorders. Therefore, it is now appropriate to revise our regulations to authorize licensed optometrists to be ''acceptable medical sources'' for visual disorders in all jurisdictions but the U.S. Virgin Islands.[1]

The revised regulations expand the situations in which we consider licensed optometrists to be ''acceptable medical sources.'' These revised regulations will allow us to make more decisions based on medical evidence supplied to us solely from optometrists, rather than having to purchase time-consuming and expensive consultative examinations with ophthalmologists. Therefore, these regulations will help some individuals with visual disorders qualify for benefits more quickly.

[1] The U.S. Virgin Islands does not allow optometrists to administer or prescribe pharmaceuticals, including topical application of pharmaceuticals for diagnostic or treatment purposes. Because a complete evaluation of the eye includes the use of diagnostic pharmaceuticals, optometrists in the U.S. Virgin Islands are not qualified to perform a complete evaluation of the eye.

What rules are we revising?

We are revising §§ 404.1513(a)(3) and 416.913(a)(3) to provide that, except in the U.S. Virgin Islands, licensed optometrists are ''acceptable medical sources'' for purposes of establishing a medically determinable impairment for visual disorders only. However, we are maintaining our current rules for licensed optometrists in the U.S. Virgin Islands, where these individuals will continue to be ''acceptable medical sources'' for measurement of visual acuity and visual fields only.

What programs do these revised regulations affect?

These revised rules affect disability and blindness determinations and decisions that we make under titles II and XVI of the Act. In addition, to the extent that Medicare entitlement and Medicaid eligibility are based on whether you qualify for disability benefits under title II or disability or blindness under title XVI, these rules affect the Medicare and Medicaid programs.

Who can get disability benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see § 404.336) of insured workers.

Under title II of the Act, you may qualify for a period of disability if you are insured for disability under Social Security and have a disability as defined in section 216(i)(1) of the Act. That section defines disability to include statutory blindness, for purposes of establishing a period of disability under title II. If we find that you are blind and you meet the insured status requirement, we may establish a period of disability for you regardless of whether you can do substantial gainful activity (SGA). A period of disability protects your earnings record under Social Security so that the time you are disabled will not count against you in determining whether you will have worked long enough to qualify for benefits and the amount of your benefits. See §§ 404.320, 404.1505, 404.1581, and 404.1582.

Under title XVI of the Act, we provide for SSI payments on the basis of disability or blindness if you are disabled or blind and have limited income and resources.

How do we define blindness?

For both the title II and title XVI programs, the Act defines blindness as ''central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered * * * as having a central visual acuity of 20/200 or less.'' (See sections 216(i)(1) and 1614(a)(2) of the Act.)

Title II of the Act does not provide a separate category of benefits based on blindness. However, you may be entitled to benefits based on disability under title II of the Act if you are blind.

By contrast, title XVI of the Act provides for a category of payments based on blindness as well as a category of payments based on disability. If you are blind and meet the SSI income and resources requirements, you may be eligible for SSI payments based on blindness. Your blindness does not have to meet a 12-month duration requirement for you to be eligible for these payments. Also, there is no requirement that you must be unable to do any SGA. However, if you are working, we will consider your earnings to determine if you are eligible for SSI payments.

How do we decide whether you are disabled?

If you are applying for disability benefits under title II of the Act, § 404.1513(a) of our regulations provides that we need evidence from ''acceptable medical sources'' to establish whether you have a medically determinable impairment(s). Therefore, in general, to be entitled to disability benefits under title II, your blindness must result from a medically determinable impairment and meet the 12-month duration requirement. (See §§ 404.1508, 404.1513, and 404.1581.) Also, if you are under age 55, you must be unable to do any SGA. (See §§ 404.1582 and 404.1584(b).) Even though you are doing SGA, we may still find that you are entitled to title II disability benefits if—

- You are blind;
- You are age 55 or older; and
- You are unable to use skills or abilities like the ones you used in any SGA which you did regularly and for a substantial period of time. However, we will not pay you any cash benefits for any month in which you are doing SGA. (See §§ 404.1583 and 404.1584(c).)

Section 416.913(a) of our regulations provides that if you are claiming benefits under title XVI on the basis of disability, not blindness, your disability must result from a medically determinable impairment documented by ''acceptable medical sources.'' However, blindness is treated differently under title XVI of the Act. Under title XVI, blindness and disability are separate categories of SSI payments, and the requirements for eligibility based on blindness are different from the requirements for eligibility based on disability. Under title XVI, the only evidence we need to establish statutory blindness is evidence showing that your visual acuity or visual field, in the better eye, meets the criteria described in § 416.981 of our regulations, provided that those measurements are consistent with the other evidence in your case record. We do not need to determine the cause of your blindness for you to be eligible for SSI payments based on blindness. Also, as provided in § 416.983, there is no duration requirement for statutory blindness under title XVI. Section 416.913(f) provides that if you are applying for benefits under title XVI on the basis of statutory blindness, we will require an examination by a physician skilled in diseases of the eye or by an optometrist, whichever you may select.

What is a ''medically determinable impairment?''

We will not consider you to be disabled or blind unless you furnish medical and other evidence that we need to show that you are disabled or blind. (See sections 223(d)(5)(A) and 1614(a)(3)(H)(i) of the Act and §§ 404.1512(a) and 416.912(a) of our regulations.) The Act requires that you show that your disability results from a medically determinable physical or mental impairment. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. (See sections 223(d)(3) and 1614(a)(3)(D) of the Act.) Our regulations provide that a physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings. (See §§ 404.1508 and 416.908.)

What is our authority to make rules and set procedures for determining whether a person is disabled under the statutory definition?

Section 205(a) of the Act and, by reference to section 205(a), section 1631(d)(1) provide that:

The Commissioner of Social Security shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

What do we mean by ''final rules'' and ''prior rules?''

Even though these rules will not go into effect until 30 days after publication of this notice, for clarity we refer to the changes we are making here as the ''final rules'' and to the rules that will be changed by these final rules as the ''prior rules.''

When will we start to use these final rules?

We will use these rules on their effective date. We will continue to use our prior rules until the effective date of these final rules. When the final rules become effective, we will apply them to new applications filed on or after the effective date of these rules and to claims pending before us, as we describe below.

As is our usual practice when we make changes to our regulations, we will apply these final rules on or after their effective date whenever we make a determination or decision, including in those claims in which we make a determination or decision after remand to us from a Federal court. With respect to claims in which we have made a final decision and that are pending judicial review in Federal court, we expect that the court's review of the Commissioner's final decision would be made in accordance with the rules in effect at the time the final decision of the Commissioner was issued. If a court reverses the Commissioner's final decision and remands the case for further administrative proceedings after the effective date of these final rules, we will apply the provisions of these final rules to the entire period at issue in the claim in our new decision issued pursuant to the court's remand.

Public Comments

In the notice of proposed rulemaking (NPRM) we published in the **Federal Register** on March 1, 2006 (71 FR 10456), we provided the public with a 60-day comment period that ended on May 1, 2006.

We received 25 sets of comments. The commenters included medical organizations, a professional association of individuals who evaluate and adjudicate Social Security disability claims, optometrists, and other individuals.

Twenty-three commenters supported the proposed rules. Since these commenters did not recommend any changes to these rules, we have not summarized or responded to their comments below. Because some of the remaining comments were long, we have condensed, summarized, and paraphrased them below. We have tried to present the commenters' views adequately and to respond to the issues raised by the commenters that were within the scope of the rulemaking. We provide our reasons for adopting or not adopting the recommendations in the summaries of the comments and our responses below.

Comment: A commenter disagreed with our proposed changes on the basis that licensed optometrists have less training than ophthalmologists. This commenter was concerned that the expansion of the definition of ''acceptable medical sources'' to include licensed optometrists might not be appropriate.

Response: As we indicated in the NPRM, and as noted above, we obtained information about the education, qualifications, and States' scope-of-practice requirements related to optometrists. Based on our careful review of this information, we have determined that, with the exception of the U.S. Virgin Islands, the licensing requirements, scope of treatment, and diagnostic protocols for licensed optometrists are sufficient to qualify all licensed optometrists as ''acceptable medical sources'' for establishing the existence of visual disorders under our disability programs. Therefore, we have determined that it is appropriate to revise our regulations to make licensed optometrists ''acceptable medical sources'' for establishing visual disorders in all jurisdictions but the U.S. Virgin Islands.

With this change, we will be able to make more decisions based on existing medical evidence, without having to purchase time-consuming and expensive consultative examinations, thereby allowing some individuals with visual disorders to qualify for benefits more quickly. While we respect the knowledge, skills, and education of ophthalmologists, our research shows that optometrists are capable of providing the evidence, including the signs and laboratory findings, that we need to establish a medically determinable visual disorder.

Comment: Two commenters disagreed with our proposed changes because the law and our regulations require that a disability be ''medically determinable.'' They believed that this meant that we should continue to require an examination by a treating or consulting ophthalmologist (M.D. or D.O.) to diagnose and establish the pathology of disorder causing visual impairment. One of these commenters noted the differences between the criteria in titles II and XVI and indicated that in the case of title II disability findings related to blindness, the evidence must show, and an ''acceptable medical source'' must agree, that a medical condition caused the claimant's blindness. This commenter believed that optometrists are not qualified to identify or evaluate the underlying medical cause of blindness, or to monitor, treat, and provide prognoses for many eye diseases that could lead to disabling vision loss or the likely outcomes from those interventions, because they are not fully knowledgeable of the potential treatments and lack the medical training, knowledge, and expertise needed to interpret the clinical and laboratory findings that would be necessary to diagnose a medically determinable impairment.

Response: While we agree that title II requires that a visual disorder must be established by evidence from an ''acceptable medical source,'' the Act does not define who is an ''acceptable medical source.'' Instead, and as we noted in the NPRM (71 FR at 10458) and earlier in this preamble, Congress gave the Commissioner the authority to make rules and regulations that provide for ''the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits * * *.'' See sections 205(a) and 1631(d)(1) of the Act. Under that authority, we have determined that, with the exception of the U.S. Virgin Islands, the licensing requirements, scope of treatment, and diagnostic protocols for licensed optometrists are sufficient to qualify all licensed optometrists as ''acceptable medical sources'' for establishing the existence of visual disorders for purposes of our disability programs, including for purposes of benefits under title II. We do not agree with these commenters that we also need evidence from a physician in these cases.

Comment: One commenter questioned the differences between the eligibility requirements for benefits based on blindness under title XVI and benefits based on disability under title II and title XVI. This commenter noted that it is not necessary to establish the cause of the blindness in order to receive benefits based on blindness under title XVI, but it is necessary to establish the

cause of any visual loss in order to receive disability benefits under either title XVI or title II, including disability benefits based on blindness under title II. The commenter indicated that these differences, as well as the fact that there is no duration requirement for benefits based on blindness under title XVI while there is such a requirement under title II, penalize individuals who receive title II disability benefits based on blindness. The commenter also recommended that if the title XVI eligibility requirements are statutory and cannot be changed, we should apply them when we determine whether individuals are disabled based on blindness under title II.

Response: These rules are required by the Act. ''Blindness'' and ''disability'' are separate categories under title XVI, whereas under title II blindness is considered a type of ''disability.'' The statutory requirements for eligibility based on blindness under title XVI are different from the statutory requirements for eligibility based on disability under title II and title XVI. As a matter of law, we cannot apply the title XVI eligibility requirements for statutory blindness to title II claims for disability.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules meet the requirements for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review.

Regulatory Flexibility Act

We certify that these rules will not have a significant economic impact on a substantial number of small entities because they will affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These rules do not impose any new or revised reporting or recordkeeping requirements on the public.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: November 27, 2006.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set out in the preamble, we are amending subpart P of part 404 and subpart I of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart P—[Amended]

■ 1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

■ 2. Revise § 404.1513(a)(3) to read as follows:

§ 404.1513 Medical and other evidence of your impairment(s).

(a) * * *

(3) Licensed optometrists, for purposes of establishing visual disorders only (except, in the U.S. Virgin Islands, licensed optometrists, for the measurement of visual acuity and visual fields only);

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

■ 3. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383(b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

■ 4. Revise § 416.913(a)(3) to read as follows:

§ 416.913 Medical and other evidence of your impairment(s).

(a) * * *

(3) Licensed optometrists, for purposes of establishing visual disorders only (except, in the U.S. Virgin Islands, licensed optometrists, for the measurement of visual acuity and visual fields only). (See paragraph (f) of this section for the evidence needed for statutory blindness);

* * * * *

[FR Doc. E7–3577 Filed 2–28–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 522

New Animal Drugs; Maropitant

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two new animal drug applications (NADAs) filed by Pfizer, Inc. The NADAs provide for the veterinary prescription use of maropitant citrate tablets and maropitant citrate injectable solution for the management of vomiting in dogs.

DATES: This rule is effective March 1, 2007.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: *melanie.berson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed NADA 141–262 for CERENIA (maropitant citrate) Tablets. The NADA provides for the veterinary prescription use of maropitant citrate tablets in dogs for the prevention of acute vomiting and for the prevention of vomiting due to motion sickness. The application is approved as of January 29, 2007, and 21 CFR part 520 is amended by adding new § 520.1315 to reflect the approval.

Pfizer, Inc., also filed NADA 141–263 for CERENIA (maropitant citrate) Injectable Solution, used by veterinary prescription in dogs for the prevention and treatment of acute vomiting. The application is approved as of January 29, 2007, and 21 CFR part 522 is amended by adding new § 522.1315 to reflect the approval.

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

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(i)), this original approval of NADA 141–262 qualifies for 5 years of marketing exclusivity beginning January 29, 2007.

Under section 512(c)(2)(F)(ii) of the act, this original approval of NADA 141–263 qualifies for 3 years of marketing exclusivity beginning January 29, 2007.

The agency has determined under 21 CFR 25.33(d)(1) that these actions are of a type that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Parts 520 and 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 522 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. Section 520.1315 is added to read as follows:

§ 520.1315 Maropitant.

(a) *Specifications.* Each tablet contains 16, 24, 60, or 160 milligrams (mg) maropitant as maropitant citrate.

(b) *Sponsor.* See No. 000069 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Indications for use and amount.* For the prevention of acute vomiting, administer a minimum of 2.0 mg per kilogram (/kg) body weight once daily for up to 5 consecutive days. For the prevention of vomiting due to motion sickness, administer a minimum of 8.0 mg/kg body weight once daily for up to 2 consecutive days.

(2) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 4. Section 522.1315 is added to read as follows:

§ 522.1315 Maropitant.

(a) *Specifications.* Each milliliter of solution contains 10 milligrams (mg) maropitant as maropitant citrate.

(b) *Sponsor.* See No. 000069 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 1.0 mg per kilogram body weight by subcutaneous injection once daily for up to 5 consecutive days.

(2) *Indications for use.* For the prevention and treatment of acute vomiting.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: February 16, 2007.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E7–3402 Filed 2–28–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

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

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Division of Ivy Animal Health, Inc. The supplemental ANADA provides for the addition of tylosin tartrate to an approved subcutaneous implant containing trenbolone and estradiol used for increased rate of weight gain and improved feed efficiency in steers and heifers fed in confinement for slaughter.

DATES: This rule is effective March 1, 2007.

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

SUPPLEMENTARY INFORMATION: Ivy Laboratories, Div. of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, filed a supplement to ANADA 200–346 for COMPONENT TE–200 with TYLAN (trenbolone acetate and estradiol with tylosin tartrate), a subcutaneous implant used for increased rate of weight gain and improved feed efficiency in steers and heifers fed in confinement for slaughter. The supplemental ANADA provides for the addition of a pellet containing 29 milligrams (mg) tylosin tartrate to the approved COMPONENT TE–200 implant for steers and heifers fed in confinement for slaughter. The supplemental application is approved as of January 26, 2007, and the regulations are amended in 21 CFR 522.2477 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning January 26, 2007.

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

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

List of Subjects in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 522.2477, add paragraph (d)(2)(i)(F) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(F) 200 mg trenbolone acetate and 20 mg estradiol (one implant consisting of 11 pellets, each of 10 pellets containing 20 mg trenbolone acetate and 2 mg estradiol, and 1 pellet containing 29 mg tylosin tartrate) per implant dose.

* * * * *

Dated: February 12, 2007.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. E7–3620 Filed 2–28–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health. The supplemental NADA provides for minor revisions to labeling of monensin Type A medicated articles for chickens. FDA is also amending the regulations to simplify the organization of special labeling requirements for formulations (Type A medicated articles, Type B and Type C medicated feeds) containing monensin for poultry and game birds. This action is being taken to improve the clarity of the regulations.

DATES: This rule is effective March 1, 2007.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7571, e-mail: *joan.gotthardt@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed a supplement to NADA 38–878 that provides for use of COBAN 60 and COBAN 90 (monensin, USP) Type A medicated articles in feed of chickens. The supplement provides for minor revisions to labeling. The supplemental NADA is approved as of February 7, 2007, and the regulations in 21 CFR 558.355 are amended to reflect the approval.

In addition, FDA is taking this opportunity to amend the regulations to simplify the organization of special labeling requirements for formulations (Type A medicated articles, Type B and Type C medicated feeds) containing monensin for poultry and game birds. Similar restructuring was done recently for monensin formulations used in ruminants (71 FR 66231, November 14, 2006). This action is being taken to improve the clarity of the regulations.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

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

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 2. In § 558.355, revise paragraphs (a), (b)(1), (b)(4), (b)(6), (d)(4), (d)(5), and (d)(8); and add paragraphs (d)(9)(iv) through (d)(9)(vi), and (d)(10)(iv) through (d)(10)(vi) to read as follows:

§ 558.355 Monensin.

(a) *Specifications.* Type A medicated articles containing monensin, USP.

(b) * * *

(1) To No. 000986: 36.3 (for export only), 44, 45, 60, or 90.7 grams per pound for use as in paragraphs (f)(1)(i) and (f)(4) of this section.

* * * * *

(4) To No. 000986: 45, 60, or 90.7 grams per pound for use as in paragraph (f)(2) of this section.

* * * * *

(6) To No. 000986: 45, 60, or 90.7 grams per pound for use as in paragraph (f)(5) of this section.

* * * * *

(d) * * *

(4) Liquid Type B feeds shall bear an expiration date of 8 weeks after its date of manufacture.

(5) All Type A medicated articles containing monensin shall bear the following warning statement: When mixing and handling monensin Type A medicated articles, use protective clothing, impervious gloves, and a dust mask. Operators should wash thoroughly with soap and water after handling. If accidental eye contact occurs, immediately rinse thoroughly with water.

* * * * *

(8) Type A medicated articles containing monensin intended for use in chickens, turkeys, and quail shall bear the following statements:

(i) Do not allow horses, other equines, mature turkeys, or guinea fowl access to feed containing monensin. Ingestion of monensin by horses and guinea fowl has been fatal.

(ii) Must be thoroughly mixed in feeds before use.

(iii) Do not feed undiluted.

(iv) Do not feed to laying chickens.

(v) Do not feed to chickens over 16 weeks of age.

(vi) For replacement chickens intended for use as cage layers only.

(vii) Some strains of turkey coccidia may be monensin tolerant or resistant. Monensin may interfere with development of immunity to turkey coccidiosis.

(viii) In the absence of coccidiosis in broiler chickens the use of monensin with no withdrawal period may limit feed intake resulting in reduced weight gain.

(9) * * *

(iv) *Chickens*: See paragraphs (d)(8)(i) through (d)(8)(vi), and (d)(8)(viii) of this section.

(v) *Turkeys:* See paragraphs (d)(8)(i), (d)(8)(ii), (d)(8)(iii), and (d)(8)(vii) of this section.

(vi) *Quail*: See paragraphs (d)(8)(i), (d)(8)(ii), and (d)(8)(iii) of this section.

(10) * * *

(iv) *Chickens*: See paragraphs (d)(8)(i), (d)(8)(iv), (d)(8)(v), (d)(8)(vi), and (d)(8)(viii) of this section.

(v) *Turkeys*: See paragraphs (d)(8)(i) and (d)(8)(vii) of this section.

(vi) *Quail*: See paragraph (d)(8)(i) of this section.

* * * * *

Dated: February 12, 2007.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. E7–3621 Filed 2–28–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Zilpaterol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Intervet Inc. The supplemental NADA provides for the removal of a caution statement against the formulation of pelleted feeds from labeling of zilpaterol hydrochloride Type A medicated article and Type B and Type C medicated feeds.

DATES: This rule is effective March 1, 2007.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–120), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301 827–1600, e-mail: *charles.andres@.fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Intervet Inc., P.O. Box 318, 29160 Intervet Ln., Millsboro, DE 19966, filed a supplement to NADA 141–258 for use of ZILMAX (zilpaterol hydrochloride 4.8%) Type A medicated article to formulate Type B and Type C medicated cattle feeds. The supplemental NADA provides for the removal of a caution statement against the formulation of pelleted feeds from labeling. The supplemental NADA is approved as of January 29, 2007, and the regulations are amended in 21 CFR 558.665 to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

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

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.665 [Amended]

■ 2. Remove paragraph (d)(3) of § 558.665.

Dated: February 12, 2007.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. E7–3615 Filed 2–28–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9314]

RIN 1545–BF37

Depreciation of MACRS Property That Is Acquired in a Like-Kind Exchange or as a Result of an Involuntary Conversion

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the depreciation of property subject to the accelerated cost recovery system under section 168 of the Internal Revenue Code (MACRS property). Specifically, these final regulations provide guidance on how to depreciate MACRS property acquired in a like-kind exchange under section 1031 or as a result of an involuntary conversion under section 1033 when both the acquired and relinquished property are subject to MACRS in the hands of the acquiring taxpayer. These final regulations will affect taxpayers involved in a like-kind exchange under section 1031 or an involuntary conversion under section 1033. The corresponding temporary regulations are removed.

DATES: *Effective Dates:* These regulations are effective on February 26, 2007.

Applicability Dates: For dates of applicability, see §§ 1.168(a)-1(b), 1.168(b)-1(b), 1.168(d)-1(d)(3), 1.168(i)-1(l), 1.168(i)-6(k), and 1.168(k)-1(g)(3)(ii).

FOR FURTHER INFORMATION CONTACT: Patrick S. Kirwan, (202) 622–3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1 under section 168 of the Internal Revenue Code (Code). Section 168 provides the depreciation deduction for tangible property generally placed in service after December 31, 1986.

On March 1, 2004, the IRS and the Treasury Department published in the **Federal Register** (69 FR 9529) temporary regulations (TD 9115) relating to the depreciation allowable for tangible property of a character subject to the allowance for depreciation provided in section 167(a) that is generally placed in service after

December 31, 1986, and is subject to section 168 (MACRS property) that is acquired in a like-kind exchange or as a result of involuntary conversion. On the same date the IRS published a notice of proposed rulemaking related to this topic in the **Federal Register** (69 FR 9560). No public hearing on the regulations was requested or held. Several written comments to the notice of proposed rulemaking were received. After consideration of all the comments received, the proposed regulations are adopted as amended by this Treasury decision, and the corresponding temporary regulations are removed. The revisions to the proposed regulations are discussed in this preamble. Unless otherwise specifically stated, references to the temporary regulations are to TD 9115.

General Overview

Section 167 allows as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear of property used in a trade or business or held for the production of income. The depreciation allowable for depreciable tangible property placed in service after 1986 generally is determined under section 168. Section 1001 generally provides for the recognition of gain or loss on the sale or exchange of property. Under section 1031(a)(1), no gain or loss is recognized on an exchange of property held for productive use in a trade or business or for investment if the property is exchanged solely for property of like kind that is to be held either for productive use in a trade or business or for investment. Section 1031(b) provides that if an exchange would be within the provision of section 1031(a) were it not for the fact that the property received in the exchange consists not only of property permitted to be received in such an exchange, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property. Under section 1031(c), no loss from a transaction that also involves other property or money is recognized. Under section 1031(d), the basis of property acquired in an exchange described in section 1031 is the same as that of the property exchanged, decreased by the amount of any money received by the taxpayer and increased by the amount of gain (or decreased by the amount of loss) that was recognized on such exchange.

Section 1033(a)(1) provides that if property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, no gain is recognized. Under section 1033(b)(1), the basis of property acquired by the taxpayer in such a transaction is the basis of the converted property. Under section 1033(a)(2)(A), if property is compulsorily or involuntarily converted into money or into property not similar or related in service or use to the converted property, and, within the time frame described in section 1033(a)(2)(B), the taxpayer purchases other property that is related in service or use to the converted property or purchases stock in the acquisition of control of a corporation owning such property, then the taxpayer may elect to recognize gain only to the extent that the amount realized upon such conversion exceeds the cost of such other property or stock. Under section 1033(b)(2), if such an election is made, the basis of the replacement property acquired by the taxpayer generally is the cost of that property decreased by any gain not recognized by reason of section 1033(a)(2).

Summary of Comments and Explanation of Provisions

Scope

In general, the final regulations adopt the rules outlined in the proposed and temporary regulations with the addition of some clarifying language and examples provided in response to comments. The temporary regulations provided guidance as to how to determine the annual depreciation allowance under section 168 for replacement property acquired in a like-kind exchange or involuntary conversion. However, the temporary regulations did not apply to a like-kind exchange or involuntary conversion if the allowance for depreciation of either the relinquished or replacement property is computed under a depreciation system other than section 168 (MACRS), or for which a taxpayer made a valid election under section 168(f)(1) to exclude it from the application of MACRS. A commentator requested that the final regulations apply to all property acquired in a like-kind exchange or involuntary conversion. However, it is anticipated that the vast majority of like-kind exchanges and involuntary conversions occurring after the effective date of the final regulations will involve the exchange of MACRS property. In addition, there are differences between MACRS and other depreciation systems which would require the creation of additional rules which would only apply in a limited number of circumstances. Furthermore, certain types of property are statutorily excluded from being treated as MACRS property. Therefore, the final regulations do not adopt the commentator's suggestion. However, the final regulations allow a taxpayer to elect to treat the sum of the exchanged basis and excess basis of the replacement property as MACRS property that is placed in service at the time of replacement if the tangible depreciable property acquired by a taxpayer in a like-kind exchange or involuntary conversion replaces tangible depreciable property for which the taxpayer made a valid election under section 168(f)(1) to exclude it from the application of MACRS. For example, a taxpayer that exchanges a machine depreciated under the unit of production method for a used machine may depreciate under MACRS the sum of the exchanged basis and excess basis of the used machine (replacement property) as a machine placed in service at the time of replacement.

Optional Depreciation Tables

For taxpayers who wish to use the optional depreciation tables to determine the depreciation allowances for the replacement MACRS property instead of the formulas (for example, see section 6 of Rev. Proc. 87–57 (1987–2 CB 687, 692)), the final regulations provide guidance on choosing the applicable optional table as well as how to modify the calculation for computing the depreciation allowances for the replacement MACRS property. A commentator noted that under the temporary regulations depreciation computed using the optional tables could be different than the depreciation computed using the formulas and suggested adopting a different transaction coefficient. The IRS and Treasury recognize that use of the optional depreciation tables may result in a different computation of depreciation. Nonetheless, the optional depreciation tables are intended to provide an alternative method of calculating depreciation for taxpayers. Furthermore, the transaction coefficient formula provided in the temporary regulations is consistent with transaction coefficient formulas provided in other depreciation guidance. Therefore, the final regulations retain the rules provided in the temporary regulations.

Depreciation Convention Provisions

Several comments were received about the application of the

depreciation convention provisions under the temporary regulations. In response to these comments, several changes were made in the final regulations. Section 1.168(i)–6(c)(5)(ii)(A) was added in order to provide an explanation of the applicable convention separate from the explanation of the rule for determining the remaining recovery period for the replacement MACRS property. Section 1.168(i)–6(c)(4)(v) specifically addresses the convention that applies to the exchanged basis when the year of replacement is after the year of disposition and the relinquished MACRS property was placed in service in the year of disposition. Section 1.168(i)–6(c)(5)(i)(B) of the final regulations contains a new rule that provides that if, using the convention that applies to the relinquished MACRS property, the remaining recovery period of the relinquished MACRS property at the beginning of the year of disposition is less than the number of months between the first of that year and the time of disposition, the entire basis in the relinquished MACRS property is deductible in the year of disposition and the exchanged basis is zero. In light of this new rule, *Example 4* of § 1.168(i)–6T(c)(6) of the temporary regulations has been replaced by *Example 5* of § 1.168(i)–6(c)(6).

Deferred Exchanges

The temporary regulations did not permit a taxpayer to take depreciation on relinquished MACRS property during the period between the disposition of the relinquished MACRS property and the acquisition of the replacement MACRS property. A comment was received which noted that under the half-year convention if relinquished MACRS property is disposed of in year 1 and the replacement MACRS property is not acquired until year 2, the taxpayer would only be entitled to deduct a half-year of depreciation in each year. The IRS and Treasury Department recognize that this result could occur under the convention rules. However, similar results occur when property is disposed of and replaced in a transaction to which section 1031 or section 1033 do not apply. In addition, the IRS and Treasury Department believe that a taxpayer cannot depreciate property the taxpayer does not own. Therefore, the final regulations retain the rule provided in the temporary regulations with respect to this issue. The final regulations reserve on providing specific guidance as to whether an intermediary (such as an exchange accommodation titleholder) is entitled to depreciation.

Acquisition Prior to Disposition for an Involuntary Conversion

The temporary regulations allowed taxpayers to begin depreciating replacement property upon acquisition even if the acquisition occurs prior the disposition of the relinquished property if the replacement property is acquired to meet the requirements of section 1033(a)(2)(B) (acquisition under threat of condemnation). However, the temporary regulations also required taxpayers to include in taxable income any excess depreciation allowable on the unadjusted depreciable basis of the replacement MACRS property over the depreciation allowable on the excess basis of the replacement MACRS property from the date the replacement MACRS property was placed in service by the taxpayer to the time of disposition of the relinquished MACRS property. A comment was received suggesting that taxpayers be permitted to reduce the exchanged basis of the replacement property by the excess depreciation rather than requiring a taxpayer to recognize the excess depreciation as taxable income. This suggestion was not adopted in the final regulations because it would have the effect of inappropriately accelerating depreciation deductions for the replacement property.

Exchanges of Multiple Properties

The determination of the basis of property acquired in a like-kind exchange involving multiple properties is described in § 1.1031(j)–1 and the determination of the basis of multiple properties acquired as a result of an involuntary conversion is described in § 1.1033(b)–1. Commentators requested examples to show how the temporary regulations apply to the depreciation treatment of a like-kind exchange or an involuntary conversion involving multiple properties. Other commentators suggested that taxpayers be permitted to use any reasonable, consistent method of allocating basis among the properties. The IRS and Treasury Department believe that these comments concern the allocation of basis principles under sections 1031 and 1033, rather than the depreciation rules under section 168. Once basis in property is determined or allocated under section 1031 or section 1033, these final regulations would then apply for determining the depreciation allowable with respect to such basis. The IRS and Treasury Department believe that issues related to allocation of basis among multiple properties involved in like-kind exchanges or involuntary conversions for purposes of depreciation are beyond the scope of the final regulations. Therefore the final regulations do not address these issues. However, the IRS and Treasury Department intend to invite interested parties to submit written comments regarding whether additional published guidance is needed in this area, and to invite written comments that specifically propose or address possible resolutions to these issues.

Transactions Involving Nondepreciable Property

A commentator requested guidance as to how depreciation is calculated if the relinquished property was only partially used for business purposes. In response to this comment, the final regulations provide an example to show how depreciation is calculated on replacement property received in exchange for property that was used only partially for business purposes (see *Example 2* in § 1.168(i)–6(d)(3)(iii)).

General Asset Accounts

Under the temporary regulations, general asset account treatment terminates for the relinquished MACRS property as of the first day of the year of disposition. Because this rule would require taxpayers to track each property in a general asset account, the IRS and Treasury Department requested comments on alternative methods to account for a like-kind exchange or involuntary conversion involving MACRS property contained in a general asset account when the replacement MACRS property has a longer recovery period or less accelerated depreciation method than the relinquished MACRS property or when the basis of the general asset account would change as a result of the like-kind exchange or involuntary conversion. No comments were received on this rule and no alternatives were suggested. Therefore, the regulations are adopted as proposed.

Effective Date

These final regulations generally apply to a like-kind exchange or an involuntary conversion of MACRS property for which the time of disposition and the time of replacement both occur after February 27, 2004. For a like-kind exchange or an involuntary conversion of MACRS property for which the time of disposition, the time of replacement, or both occur on or before February 27, 2004, a taxpayer may apply these final regulations or rely on prior guidance issued by the IRS.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Patrick S. Kirwan, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Sections 1.168(a)–1 and 1.168(b)–1 are added to read as follows:

§ 1.168(a)–1 Modified accelerated cost recovery system.

(a) Section 168 determines the depreciation allowance for tangible property that is of a character subject to the allowance for depreciation provided in section 167(a) and that is placed in service after December 31, 1986 (or after July 31, 1986, if the taxpayer made an election under section 203(a)(1)(B) of the Tax Reform Act of 1986; 100 Stat. 2143). Except for property excluded from the application of section 168 as a result of section 168(f) or as a result of a transitional rule, the provisions of section 168 are mandatory for all eligible property. The allowance for depreciation under section 168 constitutes the amount of depreciation allowable under section 167(a). The determination of whether tangible property is property of a character subject to the allowance for depreciation is made under section 167 and the regulations under section 167.

(b) This section is applicable on and after February 27, 2004.

§ 1.168(b)–1 Definitions.

(a) *Definitions.* For purposes of section 168 and the regulations under section 168, the following definitions apply:

(1) *Depreciable property* is property that is of a character subject to the allowance for depreciation as determined under section 167 and the regulations under section 167.

(2) *MACRS property* is tangible, depreciable property that is placed in service after December 31, 1986 (or after July 31, 1986, if the taxpayer made an election under section 203(a)(1)(B) of the Tax Reform Act of 1986; 100 Stat. 2143) and subject to section 168, except for property excluded from the application of section 168 as a result of section 168(f) or as a result of a transitional rule.

(3) *Unadjusted depreciable basis* is the basis of property for purposes of section 1011 without regard to any adjustments described in section 1016(a)(2) and (3). This basis reflects the reduction in basis for the percentage of the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business (or for the production of income), for any portion of the basis the taxpayer properly elects to treat as an expense under section 179, section 179C, or any similar provision, and for any adjustments to basis provided by other provisions of the Internal Revenue Code and the regulations under the Code (other than section 1016(a)(2) and (3)) (for example, a reduction in basis by the amount of the disabled access credit pursuant to section 44(d)(7)). For property subject to a lease, see section 167(c)(2).

(4) *Adjusted depreciable basis* is the unadjusted depreciable basis of the property, as defined in § 1.168(b)–1(a)(3), less the adjustments described in section 1016(a)(2) and (3).

(b) *Effective date.* This section is applicable on or after February 27, 2004.

§§ 1.168(a)–1T and 1.168(b)–1T [Removed]

■ **Par. 3.** Sections 1.168(a)–1T and 1.168(b)–1T are removed.

■ **Par. 4.** Section 1.168(d)–1 is amended by revising the section heading and paragraphs (b)(3) and (d)(3) to read as follows:

§ 1.168(d)–1 Applicable conventions—half-year and mid-quarter conventions.

* * * * *

(b) * * *

(3) *Property placed in service and disposed of in the same taxable year.* (i) Under section 168(d)(3)(B)(ii), the depreciable basis of property placed in service and disposed of in the same taxable year is not taken into account in determining whether the 40-percent test is satisfied. However, the depreciable basis of property placed in service, disposed of, subsequently reacquired, and again placed in service, by the taxpayer in the same taxable year must be taken into account in applying the 40-percent test, but the basis of the property is only taken into account on the later of the dates that the property is placed in service by the taxpayer during the taxable year. Further, see §§ 1.168(i)–6(c)(4)(v)(B) and 1.168(i)–6(f) for rules relating to property placed in service and exchanged or involuntarily converted during the same taxable year.

(ii) The applicable convention, as determined under this section, applies to all depreciable property (except nonresidential real property, residential rental property, and any railroad grading or tunnel bore) placed in service by the taxpayer during the taxable year, excluding property placed in service and disposed of in the same taxable year. However, see §§ 1.168(i)–6(c)(4)(v)(A) and 1.168(i)–6(f) for rules relating to MACRS property that has a basis determined under section 1031(d) or section 1033(b). No depreciation deduction is allowed for property placed in service and disposed of during the same taxable year. However, see § 1.168(k)–1(f)(1) for rules relating to qualified property or 50-percent bonus depreciation property, and § 1.1400L(b)–1(f)(1) for rules relating to qualified New York Liberty Zone property, that is placed in service by the taxpayer in the same taxable year in which either a partnership is terminated as a result of a technical termination under section 708(b)(1)(B) or the property is transferred in a transaction described in section 168(i)(7).

* * * * *

(d) * * *

(3) *Like-kind exchanges and involuntary conversions.* The last sentence in paragraph (b)(3)(i) and the second sentence in paragraph (b)(3)(ii) of this section apply to exchanges to which section 1031 applies, and involuntary conversions to which section 1033 applies, of MACRS property for which the time of disposition and the time of replacement both occur after February 27, 2004.

§ 1.168(d)–1T [Removed]

■ **Par. 5.** Section 1.168(d)–1T is removed.

■ **Par. 6.** Section 1.168(i)–0 is amended as follows:

■ 1. The entries for § 1.168(i)–1(d)(2), (e)(3)(i), (e)(3)(v), (e)(3)(vi), (f), (f)(1), (f)(2), (f)(2)(i), (i), (j), and (l) are revised.

■ 2. The entries for § 1.168(i)–1(l)(1), (l)(2), and (l)(3) are added.

The revisions and additions read as follows:

§ 1.168(i)–0 Table of contents for the general asset account rules.

* * * * *

§ 1.168(i)–1 General asset accounts.

* * * * *

(d) * * *

(2) Special rule for passenger automobiles.

* * * * *

(e) * * *

(3) * * *

(i) In general.

* * * * *

(v) Transactions subject to section 1031 or 1033.

(vi) Anti-abuse rule.

* * * * *

(f) Assets generating foreign source income.

(1) In general.

(2) Source of ordinary income, gain, or loss.

(i) Source determined by allocation and apportionment of depreciation allowed.

* * * * *

(i) Identification of disposed or converted asset.

(j) Effect of adjustments on prior dispositions.

* * * * *

(l) Effective date.

(1) In general.

(2) Exceptions.

(3) Like-kind exchanges and involuntary conversions.

§ 1.168(i)–0T [Removed]

■ **Par. 7.** Section 1.168(i)–0T is removed.

■ **Par. 8.** Section 1.168(i)–1 is amended as follows:

■ 1. Paragraphs (d)(2), (e)(3)(i), (e)(3)(iii)(B)(*4*), (e)(3)(v), (e)(3)(vi), (f)(1), (f)(2)(i), (i), (j), (l)(1), and (l)(3) are revised.

■ 2. The first sentence in paragraph (l)(2)(ii)(B) is amended by removing the language ''as modified by Rev. Proc. 2004–11 (2004–3 I.R.B. 311)''.

The revisions read as follows:

§ 1.168(i)–1 General asset accounts.

* * * * *

(d) * * *

(2) *Special rule for passenger automobiles.* For purposes of applying section 280F(a), the depreciation allowance for a general asset account established for passenger automobiles is limited for each taxable year to the amount prescribed in section 280F(a) multiplied by the excess of the number of automobiles originally included in the account over the number of automobiles disposed of during the taxable year or in any prior taxable year in a transaction described in paragraph (e)(3)(iii) (disposition of an asset in a qualifying disposition), (e)(3)(iv) (transactions subject to section 168(i)(7)), (e)(3)(v) (transactions subject to section 1031 or 1033), (e)(3)(vi) (anti-abuse rule), (g) (assets subject to recapture), or (h)(1) (conversion to personal use) of this section.

(e) * * *

(3) * * *

(i) *In general.* This paragraph (e)(3) provides the rules for terminating general asset account treatment upon certain dispositions. While the rules under paragraphs (e)(3)(ii) and (iii) of this section are optional rules, the rules under paragraphs (e)(3)(iv), (v), and (vi) of this section are mandatory rules. A taxpayer applies paragraph (e)(3)(ii) or (iii) of this section by reporting the gain, loss, or other deduction on the taxpayer's timely filed Federal income tax return (including extensions) for the taxable year in which the disposition occurs. For purposes of applying paragraph (e)(3)(iii) through (vi) of this section, see paragraph (i) of this section for identifying the unadjusted depreciable basis of a disposed asset.

* * * * *

(iii) * * *

(B) * * *

(*4*) A transaction, other than a transaction described in paragraphs (e)(3)(iv) (pertaining to transactions subject to section 168(i)(7)) and (e)(3)(v) (pertaining to transactions subject to section 1031 or 1033) of this section, to which a nonrecognition section of the Code applies (determined without regard to this section).

* * * * *

(v) *Transactions subject to section 1031 or section 1033*—(A) *Like-kind exchange or involuntary conversion of all assets remaining in a general asset account.* If all the assets, or the last asset, in a general asset account are transferred by a taxpayer in a like-kind exchange (as defined under § 1.168–6(b)(11)) or in an involuntary conversion (as defined under § 1.168–6(b)(12)), the taxpayer must apply this paragraph (e)(3)(v)(A) (instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section). Under this paragraph (e)(3)(v)(A), the general asset account terminates as of the first day of the year of disposition (as defined in § 1.168(i)–6(b)(5)) and—

(*1*) The amount of gain or loss for the general asset account is determined under section 1001(a) by taking into account the adjusted depreciable basis of the general asset account at the time of disposition (as defined in § 1.168(i)–6(b)(3)). The depreciation allowance for the general asset account in the year of disposition is determined in the same manner as the depreciation allowance for the relinquished MACRS property (as defined in § 1.168(i)–6(b)(2)) in the year of disposition is determined under § 1.168(i)–6. The recognition and character of gain or loss are determined in accordance with paragraph (e)(3)(ii)(A) of this section (notwithstanding that paragraph (e)(3)(ii) of this section is an optional rule); and

(*2*) The adjusted depreciable basis of the general asset account at the time of disposition is treated as the adjusted depreciable basis of the relinquished MACRS property.

(B) *Like-kind exchange or involuntary conversion of less than all assets remaining in a general asset account.* If an asset in a general asset account is transferred by a taxpayer in a like-kind exchange or in an involuntary conversion and if paragraph (e)(3)(v)(A) of this section does not apply to this asset, the taxpayer must apply this paragraph (e)(3)(v)(B) (instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section). Under this paragraph (e)(3)(v)(B), general asset account treatment for the asset terminates as of the first day of the year of disposition (as defined in § 1.168(i)–6(b)(5)), and—

(*1*) The amount of gain or loss for the asset is determined by taking into account the asset's adjusted basis at the time of disposition (as defined in § 1.168(i)–6(b)(3)). The adjusted basis of the asset at the time of disposition equals the unadjusted depreciable basis of the asset less the depreciation allowed or allowable for the asset, computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included. The depreciation allowance for the asset in the year of disposition is determined in the same manner as the depreciation allowance for the relinquished MACRS property (as defined in § 1.168(i)–6(b)(2)) in the year of disposition is determined under § 1.168(i)–6. The recognition and character of the gain or loss are determined in accordance with paragraph (e)(3)(iii)(A) of this section (notwithstanding that paragraph

(e)(3)(iii) of this section is an optional rule); and

(*2*) As of the first day of the year of disposition, the taxpayer must remove the relinquished asset from the general asset account and make the adjustments to the general asset account described in paragraph (e)(3)(iii)(C)(*2*) through (*4*) of this section.

(vi) *Anti-abuse rule*—(A) *In general.* If an asset in a general asset account is disposed of by a taxpayer in a transaction described in paragraph (e)(3)(vi)(B) of this section, general asset account treatment for the asset terminates as of the first day of the taxable year in which the disposition occurs. Consequently, the taxpayer must determine the amount of gain, loss, or other deduction attributable to the disposition in the manner described in paragraph (e)(3)(iii)(A) of this section (notwithstanding that paragraph (e)(3)(iii)(A) of this section is an optional rule) and must make the adjustments to the general asset account described in paragraph (e)(3)(iii)(C)(*1*) through (*4*) of this section.

(B) *Abusive transactions.* A transaction is described in this paragraph (e)(3)(vi)(B) if the transaction is not described in paragraph (e)(3)(iv) or (e)(3)(v) of this section and the transaction is entered into, or made, with a principal purpose of achieving a tax benefit or result that would not be available absent an election under this section. Examples of these types of transactions include—

(*1*) A transaction entered into with a principal purpose of shifting income or deductions among taxpayers in a manner that would not be possible absent an election under this section in order to take advantage of differing effective tax rates among the taxpayers; or

(*2*) An election made under this section with a principal purpose of disposing of an asset from a general asset account in order to utilize an expiring net operating loss or credit. The fact that a taxpayer with a net operating loss carryover or a credit carryover transfers an asset to a related person or transfers an asset pursuant to an arrangement where the asset continues to be used (or is available for use) by the taxpayer pursuant to a lease (or otherwise) indicates, absent strong evidence to the contrary, that the transaction is described in this paragraph (e)(3)(vi)(B).

(f) * * *

(1) *In general.* This paragraph (f) provides the rules for determining the source of any income, gain, or loss recognized, and the appropriate section 904(d) separate limitation category or categories for any foreign source income, gain, or loss recognized, on a disposition (within the meaning of paragraph (e)(1) of this section) of an asset in a general asset account that consists of assets generating both United States and foreign source income. These rules apply only to a disposition to which paragraph (e)(2) (general disposition rules), (e)(3)(ii) (disposition of all assets remaining in a general asset account), (e)(3)(iii) (disposition of an asset in a qualifying disposition), (e)(3)(v) (transactions subject to section 1031 or 1033), or (e)(3)(vi) (anti-abuse rule) of this section applies.

(2) * * *

(i) *Source determined by allocation and apportionment of depreciation allowed.* The amount of any ordinary income, gain, or loss that is recognized on the disposition of an asset in a general asset account must be apportioned between United States and foreign sources based on the allocation and apportionment of the—

(A) Depreciation allowed for the general asset account as of the end of the taxable year in which the disposition occurs if paragraph (e)(2) of this section applies to the disposition;

(B) Depreciation allowed for the general asset account as of the time of disposition if the taxpayer applies paragraph (e)(3)(ii) of this section to the disposition of all assets, or the last asset, in the general asset account, or if all the assets, or the last asset, in the general asset account are disposed of in a transaction described in paragraph (e)(3)(v)(A) of this section; or

(C) Depreciation allowed for the disposed asset for only the taxable year in which the disposition occurs if the taxpayer applies paragraph (e)(3)(iii) of this section to the disposition of the asset in a qualifying disposition, if the asset is disposed of in a transaction described in paragraph (e)(3)(v)(B) of this section (like-kind exchange or involuntary conversion), or if the asset is disposed in a transaction described in paragraph (e)(3)(vi) of this section (anti-abuse rule).

* * * * *

(i) *Identification of disposed or converted asset.* A taxpayer may use any reasonable method that is consistently applied to the taxpayer's general asset accounts for purposes of determining the unadjusted depreciable basis of a disposed or converted asset in a transaction described in paragraph (e)(3)(iii) (disposition of an asset in a qualifying disposition), (e)(3)(iv) (transactions subject to section 168(i)(7)), (e)(3)(v) (transactions subject to section 1031 or 1033), (e)(3)(vi) (anti-abuse rule), (g) (assets subject to recapture), or (h)(1) (conversion to personal use) of this section.

(j) *Effect of adjustments on prior dispositions.* The adjustments to a general asset account under paragraph (e)(3)(iii), (e)(3)(iv), (e)(3)(v), (e)(3)(vi), (g), or (h)(1) of this section have no effect on the recognition and character of prior dispositions subject to paragraph (e)(2) of this section.

* * * * *

(l) * * *

(1) *In general.* Except as provided in paragraphs (l)(2) and (l)(3) of this section, this section applies to depreciable assets placed in service in taxable years ending on or after October 11, 1994. For depreciable assets placed in service after December 31, 1986, in taxable years ending before October 11, 1994, the Internal Revenue Service will allow any reasonable method that is consistently applied to the taxpayer's general asset accounts.

* * * * *

(3) *Like-kind exchanges and involuntary conversions.* This section applies for an asset transferred by a taxpayer in a like-kind exchange (as defined under § 1.168–6(b)(11)) or in an involuntary conversion (as defined under § 1.168–6(b)(12)) for which the time of disposition (as defined in § 1.168(i)–6(b)(3)) and the time of replacement (as defined in § 1.168(i)–6(b)(4)) both occur after February 27, 2004. For an asset transferred by a taxpayer in a like-kind exchange or in an involuntary conversion for which the time of disposition, the time of replacement, or both occur on or before February 27, 2004, see § 1.168(i)–1 in effect prior to February 27, 2004 (§ 1.168(i)–1 as contained in 26 CFR part 1 edition revised as of April 1, 2003).

§ 1.168(i)–1T [Removed]

■ **Par. 9.** Section 1.168(i)–1T is removed.

■ **Par. 10.** Section 1.168(i)–5 is added to read as follows:

§ 1.168(i)–5 Table of contents.

This section lists the major paragraphs contained in § 1.168(i)–6.

§ 1.168(i)–6 Like-kind exchanges and involuntary conversions.

(9) Depreciable exchanged basis.
(10) Depreciable excess basis.
(11) Like-kind exchange.
(12) Involuntary conversion.
(c) Determination of depreciation allowance.
(1) Computation of the depreciation allowance for depreciable exchanged basis beginning in the year of replacement.
(i) In general.
(ii) Applicable recovery period, depreciation method, and convention.
(2) Effect of depreciation treatment of the replacement MACRS property by previous owners of the acquired property.
(3) Recovery period and/or depreciation method of the properties are the same, or both are not the same.
(i) In general.
(ii) Both the recovery period and the depreciation method are the same.
(iii) Either the recovery period or the depreciation method is the same, or both are not the same.
(4) Recovery period or depreciation method of the properties is not the same.
(i) Longer recovery period.
(ii) Shorter recovery period.
(iii) Less accelerated depreciation method.
(iv) More accelerated depreciation method.
(v) Convention.
(A) Either the relinquished MACRS property or the replacement MACRS property is mid-month property.
(B) Neither the relinquished MACRS property nor the replacement MACRS property is mid-month property.
(5) Year of disposition and year of replacement.
(i) Relinquished MACRS property.
(A) General rule.
(B) Special rule.
(ii) Replacement MACRS property.
(A) Remaining recovery period of the replacement MACRS property.
(B) Year of replacement is 12 months.
(iii) Year of disposition or year of replacement is less than 12 months.
(iv) Deferred transactions.
(A) In general.
(B) Allowable depreciation for a qualified intermediary.
(v) Remaining recovery period.
(6) Examples.
(d) Special rules for determining depreciation allowances.
(1) Excess basis.
(i) In general.
(ii) Example.
(2) Depreciable and nondepreciable property.
(3) Depreciation limitations for automobiles.
(i) In general.
(ii) Order in which limitations on depreciation under section 280F(a) are applied.
(iii) Examples.
(4) Involuntary conversion for which the replacement MACRS property is acquired and placed in service before disposition of relinquished MACRS property.
(e) Use of optional depreciation tables.
(1) Taxpayer not bound by prior use of table.
(2) Determination of the depreciation deduction.
(i) Relinquished MACRS property.
(ii) Replacement MACRS property.
(A) Determination of the appropriate optional depreciation table.
(B) Calculating the depreciation deduction for the replacement MACRS property.
(iii) Unrecovered basis.
(3) Excess basis.
(4) Examples.
(f) Mid-quarter convention.
(1) Exchanged basis.
(2) Excess basis.
(3) Depreciable property acquired for nondepreciable property.
(g) Section 179 election.
(h) Additional first year depreciation deduction.
(i) Elections.
(1) Election not to apply this section.
(2) Election to treat certain replacement property as MACRS property.
(j) Time and manner of making election under paragraph (i)(1) of this section.
(1) In general.
(2) Time for making election.
(3) Manner of making election.
(4) Revocation.
(k) Effective date.
(1) In general.
(2) Application to pre-effective date like-kind exchanges and involuntary conversions.
(3) Like-kind exchanges and involuntary conversions where the taxpayer made the election under section 168(f)(1) for the relinquished property.

§ 1.168(i)–5T [Removed]

■ **Par. 11.** Section 1.168(i)–5T is removed.

■ **Par. 12.** Section 1.168(i)–6 is added to read as follows:

§ 1.168(i)–6 Like-kind exchanges and involuntary conversions.

(a) *Scope.* This section provides the rules for determining the depreciation allowance for MACRS property acquired in a like-kind exchange or an involuntary conversion, including a like-kind exchange or an involuntary conversion of MACRS property that is exchanged or replaced with other MACRS property in a transaction between members of the same affiliated group. The allowance for depreciation under this section constitutes the amount of depreciation allowable under section 167(a) for the year of replacement and any subsequent taxable year for the replacement MACRS property and for the year of disposition of the relinquished MACRS property. The provisions of this section apply only to MACRS property to which § 1.168(h)–1 (like-kind exchanges of tax-exempt use property) does not apply. Additionally, paragraphs (c) through (f) of this section apply only to MACRS property for which an election under paragraph (i) of this section has not been made.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Replacement MACRS property* is MACRS property (as defined in § 1.168(b)–1(a)(2)) in the hands of the acquiring taxpayer that is acquired for other MACRS property in a like-kind exchange or an involuntary conversion.

(2) *Relinquished MACRS property* is MACRS property that is transferred by the taxpayer in a like-kind exchange, or in an involuntary conversion.

(3) *Time of disposition* is when the disposition of the relinquished MACRS property takes place under the convention, as determined under § 1.168(d)–1, that applies to the relinquished MACRS property.

(4) *Time of replacement* is the later of—

(i) When the replacement MACRS property is placed in service under the convention, as determined under this section, that applies to the replacement MACRS property; or

(ii) The time of disposition of the exchanged or involuntarily converted property.

(5) *Year of disposition* is the taxable year that includes the time of disposition.

(6) *Year of replacement* is the taxable year that includes the time of replacement.

(7) *Exchanged basis* is determined after the depreciation deductions for the year of disposition are determined under paragraph (c)(5)(i) of this section and is the lesser of—

(i) The basis in the replacement MACRS property, as determined under section 1031(d) and the regulations under section 1031(d) or section 1033(b) and the regulations under section 1033(b); or

(ii) The adjusted depreciable basis (as defined in § 1.168(b)–1(a)(4)) of the relinquished MACRS property.

(8) *Excess basis* is any excess of the basis in the replacement MACRS property, as determined under section 1031(d) and the regulations under section 1031(d) or section 1033(b) and the regulations under section 1033(b), over the exchanged basis as determined under paragraph (b)(7) of this section.

(9) *Depreciable exchanged basis* is the exchanged basis as determined under paragraph (b)(7) of this section reduced by—

(i) The percentage of such basis attributable to the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business (or for the production of income); and

(ii) Any adjustments to basis provided by other provisions of the Internal Revenue Code (Code) and the regulations under the Code (including section 1016(a)(2) and (3), for example, depreciation deductions in the year of

replacement allowable under section 168(k) or 1400L(b)).

(10) *Depreciable excess basis* is the excess basis as determined under paragraph (b)(8) of this section reduced by—

(i) The percentage of such basis attributable to the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business (or for the production of income);

(ii) Any portion of the basis the taxpayer properly elects to treat as an expense under section 179; and

(iii) Any adjustments to basis provided by other provisions of the Code and the regulations under the Code (including section 1016(a)(2) and (3), for example, depreciation deductions in the year of replacement allowable under section 168(k) or 1400L(b)).

(11) *Like-kind exchange* is an exchange of property in a transaction to which section 1031(a)(1), (b), or (c) applies.

(12) *Involuntary conversion* is a transaction described in section 1033(a)(1) or (2) that resulted in the nonrecognition of any part of the gain realized as the result of the conversion.

(c) *Determination of depreciation allowance*—(1) *Computation of the depreciation allowance for depreciable exchanged basis beginning in the year of replacement*—(i) *In general.* This paragraph (c) provides rules for determining the applicable recovery period, the applicable depreciation method, and the applicable convention used to determine the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement. See paragraph (c)(5) of this section for rules relating to the computation of the depreciation allowance for the year of disposition and for the year of replacement. See paragraph (d)(1) of this section for rules relating to the computation of the depreciation allowance for depreciable excess basis. See paragraph (d)(4) of this section if the replacement MACRS property is acquired before disposition of the relinquished MACRS property in a transaction to which section 1033 applies. See paragraph (e) of this section for rules relating to the computation of the depreciation allowance using the optional depreciation tables.

(ii) *Applicable recovery period, depreciation method, and convention.* The recovery period, depreciation method, and convention determined under this paragraph (c) are the only permissible methods of accounting for MACRS property within the scope of this section unless the taxpayer makes the election under paragraph (i) of this section not to apply this section.

(2) *Effect of depreciation treatment of the replacement MACRS property by previous owners of the acquired property.* If replacement MACRS property is acquired by a taxpayer in a like-kind exchange or an involuntary conversion, the depreciation treatment of the replacement MACRS property by previous owners has no effect on the determination of depreciation allowances for the replacement MACRS property in the hands of the acquiring taxpayer. For example, a taxpayer exchanging, in a like-kind exchange, MACRS property for property that was depreciated under section 168 of the Internal Revenue Code of 1954 (ACRS) by the previous owner must use this section because the replacement property will become MACRS property in the hands of the acquiring taxpayer. In addition, elections made by previous owners in determining depreciation allowances for the replacement MACRS property have no effect on the acquiring taxpayer. For example, a taxpayer exchanging, in a like-kind exchange, MACRS property that the taxpayer depreciates under the general depreciation system of section 168(a) for other MACRS property that the previous owner elected to depreciate under the alternative depreciation system pursuant to section 168(g)(7) does not have to continue using the alternative depreciation system for the replacement MACRS property.

(3) *Recovery period and/or depreciation method of the properties are the same, or both are not the same*—(i) *In general.* For purposes of paragraphs (c)(3) and (c)(4) of this section in determining whether the recovery period and the depreciation method prescribed under section 168 for the replacement MACRS property are the same as the recovery period and the depreciation method prescribed under section 168 for the relinquished MACRS property, the recovery period and the depreciation method for the replacement MACRS property are considered to be the recovery period and the depreciation method that would have applied under section 168, taking into account any elections made by the acquiring taxpayer under section 168(b)(5) or 168(g)(7), had the replacement MACRS property been placed in service by the acquiring taxpayer at the same time as the relinquished MACRS property.

(ii) *Both the recovery period and the depreciation method are the same.* If both the recovery period and the depreciation method prescribed under section 168 for the replacement MACRS property are the same as the recovery period and the depreciation method prescribed under section 168 for the relinquished MACRS property, the depreciation allowances for the replacement MACRS property beginning in the year of replacement are determined by using the same recovery period and depreciation method that were used for the relinquished MACRS property. Thus, the replacement MACRS property is depreciated over the remaining recovery period (taking into account the applicable convention), and by using the depreciation method, of the relinquished MACRS property. Except as provided in paragraph (c)(5) of this section, the depreciation allowances for the depreciable exchanged basis for any 12-month taxable year beginning with the year of replacement are determined by multiplying the depreciable exchanged basis by the applicable depreciation rate for each taxable year (for further guidance, for example, see section 6 of Rev. Proc. 87–57 (1987–2 CB 687, 692) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(iii) *Either the recovery period or the depreciation method is the same, or both are not the same.* If either the recovery period or the depreciation method prescribed under section 168 for the replacement MACRS property is the same as the recovery period or the depreciation method prescribed under section 168 for the relinquished MACRS property, the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement are determined using the recovery period or the depreciation method that is the same as the relinquished MACRS property. See paragraph (c)(4) of this section to determine the depreciation allowances when the recovery period or the depreciation method of the replacement MACRS property is not the same as that of the relinquished MACRS property.

(4) *Recovery period or depreciation method of the properties is not the same.* If the recovery period prescribed under section 168 for the replacement MACRS property (as determined under paragraph (c)(3)(i) of this section) is not the same as the recovery period prescribed under section 168 for the relinquished MACRS property, the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement are determined under this paragraph (c)(4). Similarly, if the depreciation method prescribed under section 168 for the replacement MACRS property (as determined under paragraph (c)(3)(i) of this section) is not the same as the depreciation method prescribed under

section 168 for the relinquished MACRS property, the depreciation method used to determine the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement is determined under this paragraph (c)(4).

(i) *Longer recovery period.* If the recovery period prescribed under section 168 for the replacement MACRS property (as determined under paragraph (c)(3)(i) of this section) is longer than that prescribed for the relinquished MACRS property, the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement are determined as though the replacement MACRS property had originally been placed in service by the acquiring taxpayer in the same taxable year the relinquished MACRS property was placed in service by the acquiring taxpayer, but using the longer recovery period of the replacement MACRS property (as determined under paragraph (c)(3)(i) of this section) and the convention determined under paragraph (c)(4)(v) of this section. Thus, the depreciable exchanged basis is depreciated over the remaining recovery period (taking into account the applicable convention) of the replacement MACRS property.

(ii) *Shorter recovery period.* If the recovery period prescribed under section 168 for the replacement MACRS property (as determined under paragraph (c)(3)(i) of this section) is shorter than that of the relinquished MACRS property, the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement are determined using the same recovery period as that of the relinquished MACRS property. Thus, the depreciable exchanged basis is depreciated over the remaining recovery period (taking into account the applicable convention) of the relinquished MACRS property.

(iii) *Less accelerated depreciation method*—(A) If the depreciation method prescribed under section 168 for the replacement MACRS property (as determined under paragraph (c)(3)(i) of this section) is less accelerated than that of the relinquished MACRS property at the time of disposition, the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement are determined as though the replacement MACRS property had originally been placed in service by the acquiring taxpayer at the same time the relinquished MACRS property was placed in service by the acquiring taxpayer, but using the less accelerated depreciation method. Thus, the depreciable exchanged basis is depreciated using the less accelerated depreciation method.

(B) Except as provided in paragraph (c)(5) of this section, the depreciation allowances for the depreciable exchanged basis for any 12-month taxable year beginning in the year of replacement are determined by multiplying the adjusted depreciable basis by the applicable depreciation rate for each taxable year. If, for example, the depreciation method of the replacement MACRS property in the year of replacement is the 150-percent declining balance method and the depreciation method of the relinquished MACRS property in the year of replacement is the 200-percent declining balance method, and neither method had been switched to the straight line method in the year of replacement or any prior taxable year, the applicable depreciation rate for the year of replacement and subsequent taxable years is determined by using the depreciation rate of the replacement MACRS property as if the replacement MACRS property was placed in service by the acquiring taxpayer at the same time the relinquished MACRS property was placed in service by the acquiring taxpayer, until the 150-percent declining balance method has been switched to the straight line method. If, for example, the depreciation method of the replacement MACRS property is the straight line method, the applicable depreciation rate for the year of replacement is determined by using the remaining recovery period at the beginning of the year of disposition (as determined under this paragraph (c)(4) and taking into account the applicable convention).

(iv) *More accelerated depreciation method*—(A) If the depreciation method prescribed under section 168 for the replacement MACRS property (as determined under paragraph (c)(3)(i) of this section) is more accelerated than that of the relinquished MACRS property at the time of disposition, the depreciation allowances for the replacement MACRS property beginning in the year of replacement are determined using the same depreciation method as the relinquished MACRS property.

(B) Except as provided in paragraph (c)(5) of this section, the depreciation allowances for the depreciable exchanged basis for any 12-month taxable year beginning in the year of replacement are determined by multiplying the adjusted depreciable basis by the applicable depreciation rate for each taxable year. If, for example, the depreciation method of the relinquished MACRS property in the year of replacement is the 150-percent declining balance method and the depreciation method of the replacement MACRS property in the year of replacement is the 200-percent declining balance method, and neither method had been switched to the straight line method in the year of replacement or any prior taxable year, the applicable depreciation rate for the year of replacement and subsequent taxable years is the same depreciation rate that applied to the relinquished MACRS property in the year of replacement, until the 150-percent declining balance method has been switched to the straight line method. If, for example, the depreciation method is the straight line method, the applicable depreciation rate for the year of replacement is determined by using the remaining recovery period at the beginning of the year of disposition (as determined under this paragraph (c)(4) and taking into account the applicable convention).

(v) *Convention.* The applicable convention for the exchanged basis is determined under this paragraph (c)(4)(v).

(A) *Either the relinquished MACRS property or the replacement MACRS property is mid-month property.* If either the relinquished MACRS property or the replacement MACRS property is property for which the applicable convention (as determined under section 168(d)) is the mid-month convention, the exchanged basis must be depreciated using the mid-month convention.

(B) *Neither the relinquished MACRS property nor the replacement MACRS property is mid-month property.* If neither the relinquished MACRS property nor the replacement MACRS property is property for which the applicable convention (as determined under section 168(d)) is the mid-month convention, the applicable convention for the exchanged basis is the same convention that applied to the relinquished MACRS property. If the relinquished MACRS property is placed in service in the year of disposition, and the time of replacement is also in the year of disposition, the convention that applies to the relinquished MACRS property is determined under paragraph (f)(1)(i) of this section. If, however, relinquished MACRS property was placed in service in the year of disposition and the time of replacement is in a taxable year subsequent to the year of disposition, the convention that applies to the exchanged basis is the convention that applies in that

subsequent taxable year (see paragraph (f)(1)(ii) of this section).

(5) *Year of disposition and year of replacement.* No depreciation deduction is allowable for MACRS property disposed of by a taxpayer in a like-kind exchange or involuntary conversion in the same taxable year that such property was placed in service by the taxpayer. If replacement MACRS property is disposed of by a taxpayer during the same taxable year that the relinquished MACRS property is placed in service by the taxpayer, no depreciation deduction is allowable for either MACRS property. Otherwise, the depreciation allowances for the year of disposition and for the year of replacement are determined as follows:

(i) *Relinquished MACRS property*—(A) *General rule.* Except as provided in paragraphs (c)(5)(i)(B), (c)(5)(iii), (e), and (i) of this section, the depreciation allowance in the year of disposition for the relinquished MACRS property is computed by multiplying the allowable depreciation deduction for the property for that year by a fraction, the numerator of which is the number of months (including fractions of months) the property is deemed to be placed in service during the year of disposition (taking into account the applicable convention of the relinquished MACRS property), and the denominator of which is 12. In the case of termination under § 1.168(i)–1(e)(3)(v) of general asset account treatment of an asset, or of all the assets remaining, in a general asset account, the allowable depreciation deduction in the year of disposition for the asset or assets for which general asset account treatment is terminated is determined using the depreciation method, recovery period, and convention of the general asset account. This allowable depreciation deduction is adjusted to account for the period the asset or assets is deemed to be in service in accordance with this paragraph (c)(5)(i).

(B) *Special rule.* If, at the beginning of the year of disposition, the remaining recovery period of the relinquished MACRS property, taking into account the applicable convention of such property, is less than the period between the beginning of the year of disposition and the time of disposition, the depreciation deduction for the relinquished MACRS property for the year of disposition is equal to the adjusted depreciable basis of the relinquished MACRS property at the beginning of the year of disposition. If this paragraph applies, the exchanged basis is zero and no depreciation is allowable for the exchanged basis in the replacement MACRS property.

(ii) *Replacement MACRS property*—(A) *Remaining recovery period of the replacement MACRS property.* The replacement MACRS property is treated as placed in service at the time of replacement under the convention that applies to the replacement MACRS property as determined under this paragraph (c)(5)(ii). The remaining recovery period of the replacement MACRS property at the time of replacement is the excess of the recovery period for the replacement MACRS property, as determined under paragraph (c) of this section, over the period of time that the replacement MACRS property would have been in service if it had been placed in service when the relinquished MACRS property was placed in service and removed from service at the time of disposition of the relinquished MACRS property. This period is determined by using the convention that applied to the relinquished MACRS property to determine the date that the relinquished MACRS property is deemed to have been placed in service and the date that it is deemed to have been disposed of. The length of time the replacement MACRS property would have been in service is determined by using these dates and the convention that applies to the replacement MACRS property.

(B) *Year of replacement is 12 months.* Except as provided in paragraphs (c)(5)(iii), (e), and (i) of this section, the depreciation allowance in the year of replacement for the depreciable exchanged basis is determined by—

(*1*) Calculating the applicable depreciation rate for the replacement MACRS property as of the beginning of the year of replacement taking into account the depreciation method prescribed for the replacement MACRS property under paragraph (c)(3) of this section and the remaining recovery period of the replacement MACRS property as of the beginning of the year of disposition as determined under this paragraph (c)(5)(ii);

(*2*) Calculating the depreciable exchanged basis of the replacement MACRS property, and adding to that amount the amount determined under paragraph (c)(5)(i) of this section for the year of disposition; and

(*3*) Multiplying the product of the amounts determined under paragraphs (c)(5)(ii)(B)(*1*) and (B)(*2*) of this section by a fraction, the numerator of which is the number of months (including fractions of months) the property is deemed to be in service during the year of replacement (in the year of replacement the replacement MACRS property is deemed to be placed in service by the acquiring taxpayer at the time of replacement under the convention determined under paragraph (c)(4)(v) of this section), and the denominator of which is 12.

(iii) *Year of disposition or year of replacement is less than 12 months.* If the year of disposition or the year of replacement is less than 12 months, the depreciation allowance determined under paragraph (c)(5)(ii)(A) of this section must be adjusted for a short taxable year (for further guidance, for example, see Rev. Proc. 89–15 (1989–1 CB 816) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(iv) *Deferred transactions*—(A) *In general.* If the replacement MACRS property is not acquired until after the disposition of the relinquished MACRS property, taking into account the applicable convention of the relinquished MACRS property and replacement MACRS property, depreciation is not allowable during the period between the disposition of the relinquished MACRS property and the acquisition of the replacement MACRS property. The recovery period for the replacement MACRS property is suspended during this period. For purposes of paragraph (c)(5)(ii) of this section, only the depreciable exchanged basis of the replacement MACRS property is taken into account for calculating the amount in paragraph (c)(5)(ii)(B)(*2*) of this section if the year of replacement is a taxable year subsequent to the year of disposition.

(B) *Allowable depreciation for a qualified intermediary.* [Reserved].

(v) *Remaining recovery period.* The remaining recovery period of the replacement MACRS property is determined as of the beginning of the year of disposition of the relinquished MACRS property. For purposes of determining the remaining recovery period of the replacement MACRS property, the replacement MACRS property is deemed to have been originally placed in service under the convention determined under paragraph (c)(4)(v) of this section, but at the time the relinquished MACRS property was deemed to be placed in service under the convention that applied to it when it was placed in service.

(6) *Examples.* The application of this paragraph (c) is illustrated by the following examples:

Example 1. A1, a calendar-year taxpayer, exchanges Building M, an office building, for Building N, a warehouse in a like-kind exchange. Building M is relinquished in July 2004 and Building N is acquired and placed in service in October 2004. A1 did not make any elections under section 168 for either Building M or Building N. The unadjusted depreciable basis of Building M was

$4,680,000 when placed in service in July 1997. Since the recovery period and depreciation method prescribed under section 168 for Building N (39 years, straight line method) are the same as the recovery period and depreciation method prescribed under section 168 for Building M (39 years, straight line method), Building N is depreciated over the remaining recovery period of, and using the same depreciation method and convention as that of, Building M. Applying the applicable convention, Building M is deemed disposed of on July 15, 2004, and Building N is placed in service on October 15, 2004. Thus, Building N will be depreciated using the straight line method over a remaining recovery period of 32 years beginning in October 2004 (the remaining recovery period of 32 years and 6.5 months at the beginning of 2004, less the 6.5 months of depreciation taken prior to the disposition of the exchanged MACRS property (Building M) in 2004). For 2004, the year in which the transaction takes place, the depreciation allowance for Building M is ($120,000)(6.5/12) which equals $65,000. The depreciation allowance for Building N for 2004 is ($120,000)(2.5/12) which equals $25,000. For 2005 and subsequent years, Building N is depreciated over the remaining recovery period of, and using the same depreciation method and convention as that of, Building M. Thus, the depreciation allowance for Building N is the same as Building M, namely $10,000 per month.

Example 2. B, a calendar-year taxpayer, placed in service Bridge P in January 1998. Bridge P is depreciated using the half-year convention. In January 2004, B exchanges Bridge P for Building Q, an apartment building, in a like-kind exchange. Pursuant to paragraph (k)(2)(i) of this section, B decided to apply § 1.168(i)-6 to the exchange of Bridge P for Building Q, the replacement MACRS property. B did not make any elections under section 168 for either Bridge P or Building Q. Since the recovery period prescribed under section 168 for Building Q (27.5 years) is longer than that of Bridge P (15 years), Building Q is depreciated as if it had originally been placed in service in July 1998 and disposed of in July 2004 using a 27.5 year recovery period. Additionally, since the depreciation method prescribed under section 168 for Building Q (straight line method) is less accelerated than that of Bridge P (150-percent declining balance method), then the depreciation allowance for Building Q is computed using the straight line method. Thus, when Building Q is acquired and placed in service in 2004, its basis is depreciated over the remaining 21.5 year recovery period using the straight line method of depreciation and the mid-month convention beginning in July 2004.

Example 3. C, a calendar-year taxpayer, placed in service Building R, a restaurant, in January 1996. In January 2004, C exchanges Building R for Tower S, a radio transmitting tower, in a like-kind exchange. Pursuant to paragraph (k)(2)(i) of this section, C decided to apply § 1.168(i)-6 to the exchange of Building R for Tower S, the replacement MACRS property. C did not make any elections under section 168 for either Building R or Tower S. Since the recovery period prescribed under section 168 for Tower S (15 years) is shorter than that of Building R (39 years), Tower S is depreciated over the remaining recovery period of Building R. Additionally, since the depreciation method prescribed under section 168 for Tower S (150% declining balance method) is more accelerated than that of Building R (straight line method), then the depreciation allowance for Tower S is also computed using the same depreciation method as Building R. Thus, Tower S is depreciated over the remaining 31 year recovery period of Building R using the straight line method of depreciation and the mid-month convention. Alternatively, C may elect under paragraph (i) of this section to treat Tower S as though it is placed in service in January 2004. In such case, C uses the applicable recovery period, depreciation method, and convention prescribed under section 168 for Tower S.

Example 4. (i) In February 2002, D, a calendar-year taxpayer and manufacturer of rubber products, acquired for $60,000 and placed in service Asset T (a special tool) and depreciated Asset T using the straight line method election under section 168(b)(5) and the mid-quarter convention over its 3-year recovery period. D elected not to deduct the additional first year depreciation for 3-year property placed in service in 2002. In June 2004, D exchanges Asset T for Asset U (not a special tool) in a like-kind exchange. D elected not to deduct the additional first year depreciation for 7-year property placed in service in 2004. Since the recovery period prescribed under section 168 for Asset U (7 years) is longer than that of Asset T (3 years), Asset U is depreciated as if it had originally been placed in service in February 2002 using a 7-year recovery period. Additionally, since the depreciation method prescribed under section 168 for Asset U (200-percent declining balance method) is more accelerated than that of Asset T (straight line method) at the time of disposition, the depreciation allowance for Asset U is computed using the straight line method. Asset U is depreciated over its remaining recovery period of 4.75 years using the straight line method of depreciation and the mid-quarter convention.

(ii) The 2004 depreciation allowance for Asset T is $7,500 ($20,000 allowable depreciation deduction for 2004) × 4.5 months ÷ 12).

(iii) The depreciation rate in 2004 for Asset U is 0.1951 (1 ÷ 5.125 years (the length of the applicable recovery period remaining as of the beginning of 2004)). Therefore, the depreciation allowance for Asset U in 2004 is $2,744 (0.1951 × $22,500 (the sum of the $15,000 depreciable exchanged basis of Asset U ($22,500 adjusted depreciable basis at the beginning of 2004 for Asset T, less the $7,500 depreciation allowable for Asset T for 2004) and the $7,500 depreciation allowable for Asset T for 2004) × 7.5 months ÷ 12).

Example 5. The facts are the same as in *Example 4* except that D exchanges Asset T for Asset U in June 2005, in a like-kind exchange. Under these facts, the remaining recovery period of Asset T at the beginning of 2005 is 1.5 months and, as a result, is less than the 5-month period between the beginning of 2005 (year of disposition) and June 2005 (time of disposition). Accordingly, pursuant to paragraph (c)(5)(i)(B) of this section, the 2005 depreciation allowance for Asset T is $2,500 ($2,500 adjusted depreciable basis at the beginning of 2005 ($60,000 original basis minus $17,500 depreciation deduction for 2002 minus $20,000 depreciation deduction for 2003 minus $20,000 depreciation deduction for 2004)). Because the exchanged basis of asset U is $0.00, no depreciation is allowable for asset U.

Example 6. On January 1, 2004, E, a calendar-year taxpayer, acquired and placed in service Canopy V, a gas station canopy. The purchase price of Canopy V was $60,000. On August 1, 2004, Canopy V was destroyed in a hurricane and was therefore no longer usable in E's business. On October 1, 2004, as part of the involuntary conversion, E acquired and placed in service new Canopy W with the insurance proceeds E received due to the loss of Canopy V. E elected not to deduct the additional first year depreciation for 5-year property placed in service in 2004. E depreciates both canopies under the general depreciation system of section 168(a) by using the 200-percent declining balance method of depreciation, a 5-year recovery period, and the half-year convention. No depreciation deduction is allowable for Canopy V. The depreciation deduction allowable for Canopy W for 2004 is $12,000 ($60,000 × the annual depreciation rate of .40 × ½ year). For 2005, the depreciation deduction for Canopy W is $19,200 ($48,000 adjusted basis × the annual depreciation rate of .40).

Example 7. The facts are the same as in *Example 6*, except that E did not make the election out of the additional first year depreciation for 5-year property placed in service in 2004. E depreciates both canopies under the general depreciation system of section 168(a) by using the 200-percent declining balance method of depreciation, a 5-year recovery period, and the half-year convention. No depreciation deduction is allowable for Canopy V. For 2004, E is allowed a 50-percent additional first year depreciation deduction of $30,000 for Canopy W (the unadjusted depreciable basis of $60,000 multiplied by .50), and a regular MACRS depreciation deduction of $6,000 for Canopy W (the depreciable exchanged basis of $30,000 multiplied by the annual depreciation rate of .40 × ½ year). For 2005, E is allowed a regular MACRS depreciation deduction of $9,600 for Canopy W (the depreciable exchanged basis of $24,000 ($30,000 minus regular 2003 depreciation of $6,000) multiplied by the annual depreciation rate of .40).

Example 8. In January 2001, F, a calendar-year taxpayer, places in service a paved parking lot, Lot W, and begins depreciating Lot W over its 15-year recovery period. F's unadjusted depreciable basis in Lot W is $1,000x. On April 1, 2004, F disposes of Lot W in a like-kind exchange for Building X, which is nonresidential real property. Lot W is depreciated using the 150 percent declining balance method and the half-year convention. Building X is depreciated using the straight-line method with a 39-year

recovery period and using the mid-month convention. Both Lot W and Building X were in service at the time of the exchange. Because Lot W was depreciated using the half-year convention, it is deemed to have been placed in service on July 1, 2001, the first day of the second half of 2001, and to have been disposed of on July 1, 2004, the first day of the second half of 2004. To determine the remaining recovery period of Building X at the time of replacement, Building X is deemed to have been placed in service on July 1, 2001, and removed from service on July 1, 2004. Thus, Building X is deemed to have been in service, at the time of replacement, for 3 years (36 months = 5.5 months in 2001 + 12 months in 2002 + 12 months in 2003 + 6.5 months in 2004) and its remaining recovery period is 36 years (39 − 3). Because Building X is deemed to be placed in service at the time of replacement, July 1, 2004, the first day of the second half of 2004, Building X is depreciated for 5.5 months in 2004. However, at the beginning of the year of replacement the remaining recovery period for Building X is 36 years and 6.5 months (39 years − 2 years and 5.5 months (5.5 months in 2001 + 12 months in 2002 + 12 months in 2003)). The depreciation rate for building X for 2004 is 0.02737 (= 1/(39–2–5.5/12)). For 2005, the depreciation rate for Building X is 0.02814 (= 1/(39–3–5.5/12)).

Example 9. The facts are the same as in *Example 8*. F did not make the election under paragraph (i) of this section for Building Y in the initial exchange. In January 2006, F exchanges Building Y for Building Z, an office building, in a like-kind exchange. F did not make any elections under section 168 for either Building Y or Building Z. Since the recovery period prescribed for Building Y as a result of the initial exchange (39 years) is longer than that of Building Z (27.5 years), Building Z is depreciated over the remaining 33 years of the recovery period of Building Y. The depreciation methods are the same for both Building Y and Building Z so F's exchanged basis in Building Z is depreciated over 33 years, using the straight-line method and the mid-month convention, beginning in January 2006. Alternatively, F could have made the election under paragraph (i) of this section. If F makes such election, Building Z is treated as placed in service by F when acquired in January 2006 and F would recover its exchanged basis in Building Z over 27.5 years, using the straight line method and the mid-month convention, beginning in January 2006.

(d) *Special rules for determining depreciation allowances*—(1) *Excess basis*—(i) *In general.* Any excess basis in the replacement MACRS property is treated as property that is placed in service by the acquiring taxpayer in the year of replacement. Thus, the depreciation allowances for the depreciable excess basis are determined by using the applicable recovery period, depreciation method, and convention prescribed under section 168 for the property at the time of replacement. However, if replacement MACRS property is disposed of during the same taxable year the relinquished MACRS property is placed in service by the acquiring taxpayer, no depreciation deduction is allowable for either MACRS property. See paragraph (g) of this section regarding the application of section 179. See paragraph (h) of this section regarding the application of section 168(k) or 1400L(b).

(ii) *Example.* The application of this paragraph (d)(1) is illustrated by the following example:

Example. In 1989, G placed in service a hospital. On January 16, 2004, G exchanges this hospital plus $2,000,000 cash for an office building in a like-kind exchange. On January 16, 2004, the hospital has an adjusted depreciable basis of $1,500,000. After the exchange, the basis of the office building is $3,500,000. Pursuant to paragraph (k)(2)(i) of this section, G decided to apply § 1.168(i)–6 to the exchange of the hospital for the office building, the replacement MACRS property. The depreciable exchanged basis of the office building is depreciated in accordance with paragraph (c) of this section. The depreciable excess basis of $2,000,000 is treated as being placed in service by G in 2004 and, as a result, is depreciated using the applicable depreciation method, recovery period, and convention prescribed for the office building under section 168 at the time of replacement.

(2) *Depreciable and nondepreciable property*—(i) If land or other nondepreciable property is acquired in a like-kind exchange for, or as a result of an involuntary conversion of, depreciable property, the land or other nondepreciable property is not depreciated. If both MACRS and nondepreciable property are acquired in a like-kind exchange for, or as part of an involuntary conversion of, MACRS property, the basis allocated to the nondepreciable property (as determined under section 1031(d) and the regulations under section 1031(d) or section 1033(b) and the regulations under section 1033(b)) is not depreciated and the basis allocated to the replacement MACRS property (as determined under section 1031(d) and the regulations under section 1031(d) or section 1033(b) and the regulations under section 1033(b)) is depreciated in accordance with this section.

(ii) If MACRS property is acquired, or if both MACRS and nondepreciable property are acquired, in a like-kind exchange for, or as part of an involuntary conversion of, land or other nondepreciable property, the basis in the replacement MACRS property that is attributable to the relinquished nondepreciable property is treated as though the replacement MACRS property is placed in service by the acquiring taxpayer in the year of replacement. Thus, the depreciation allowances for the replacement MACRS property are determined by using the applicable recovery period, depreciation method, and convention prescribed under section 168 for the replacement MACRS property at the time of replacement. See paragraph (g) of this section regarding the application of section 179. See paragraph (h) of this section regarding the application of section 168(k) or 1400L(b).

(3) *Depreciation limitations for automobiles*—(i) *In general.* Depreciation allowances under section 179 and section 167 (including allowances under sections 168 and 1400L(b)) for a passenger automobile, as defined in section 280F(d)(5), are subject to the limitations of section 280F(a). The depreciation allowances for a passenger automobile that is replacement MACRS property (replacement MACRS passenger automobile) generally are limited in any taxable year to the replacement automobile section 280F limit for the taxable year. The taxpayer's basis in the replacement MACRS passenger automobile is treated as being comprised of two separate components. The first component is the exchanged basis and the second component is the excess basis, if any. The depreciation allowances for a passenger automobile that is relinquished MACRS property (relinquished MACRS passenger automobile) for the taxable year generally are limited to the relinquished automobile section 280F limit for that taxable year. In the year of disposition the sum of the depreciation deductions for the relinquished MACRS passenger automobile and the replacement MACRS passenger automobile may not exceed the replacement automobile section 280F limit unless the taxpayer makes the election under § 1.168(i)–6(i). For purposes of this paragraph (d)(3), the following definitions apply:

(A) *Replacement automobile section 280F limit* is the limit on depreciation deductions under section 280F(a) for the taxable year based on the time of replacement of the replacement MACRS passenger automobile (including the effect of any elections under section 168(k) or section 1400L(b), as applicable).

(B) *Relinquished automobile section 280F limit* is the limit on depreciation deductions under section 280F(a) for the taxable year based on when the relinquished MACRS passenger automobile was placed in service by the taxpayer.

(ii) *Order in which limitations on depreciation under section 280F(a) are applied.* Generally, depreciation

deductions allowable under section 280F(a) reduce the basis in the relinquished MACRS passenger automobile and the exchanged basis of the replacement MACRS passenger automobile, before the excess basis of the replacement MACRS passenger automobile is reduced. The depreciation deductions for the relinquished MACRS passenger automobile in the year of disposition and the replacement MACRS passenger automobile in the year of replacement and each subsequent taxable year are allowable in the following order:

(A) The depreciation deduction allowable for the relinquished MACRS passenger automobile as determined under paragraph (c)(5)(i) of this section for the year of disposition to the extent of the smaller of the replacement automobile section 280F limit and the relinquished automobile section 280F limit, if the year of disposition is the year of replacement. If the year of replacement is a taxable year subsequent to the year of disposition, the depreciation deduction allowable for the relinquished MACRS passenger automobile for the year of disposition is limited to the relinquished automobile section 280F limit.

(B) The additional first year depreciation allowable on the remaining exchanged basis (remaining carryover basis as determined under § 1.168(k)–1(f)(5) or § 1.1400L(b)–1(f)(5), as applicable) of the replacement MACRS passenger automobile, as determined under § 1.168(k)–1(f)(5) or § 1.1400L(b)–1(f)(5), as applicable, to the extent of the excess of the replacement automobile section 280F limit over the amount allowable under paragraph (d)(3)(ii)(A) of this section.

(C) The depreciation deduction allowable for the taxable year on the depreciable exchanged basis of the replacement MACRS passenger automobile determined under paragraph (c) of this section to the extent of any excess over the sum of the amounts allowable under paragraphs (d)(3)(ii)(A) and (B) of this section of the smaller of the replacement automobile section 280F limit and the relinquished automobile section 280F limit.

(D) Any section 179 deduction allowable in the year of replacement on the excess basis of the replacement MACRS passenger automobile to the extent of the excess of the replacement automobile section 280F limit over the sum of the amounts allowable under paragraphs (d)(3)(ii)(A), (B), and (C) of this section.

(E) The additional first year depreciation allowable on the remaining excess basis of the replacement MACRS passenger automobile, as determined under § 1.168(k)–1(f)(5) or § 1.1400L(b)–1(f)(5), as applicable, to the extent of the excess of the replacement automobile section 280F limit over the sum of the amounts allowable under paragraphs (d)(3)(ii)(A), (B), (C), and (D) of this section.

(F) The depreciation deduction allowable under paragraph (d) of this section for the depreciable excess basis of the replacement MACRS passenger automobile to the extent of the excess of the replacement automobile section 280F limit over the sum of the amounts allowable under paragraphs (d)(3)(ii)(A), (B), (C), (D), and (E) of this section.

(iii) *Examples.* The application of this paragraph (d)(3) is illustrated by the following examples:

Example 1. H, a calendar-year taxpayer, acquired and placed in service Automobile X in January 2000 for $30,000 to be used solely for H's business. In December 2003, H exchanges, in a like-kind exchange, Automobile X plus $15,000 cash for new Automobile Y that will also be used solely in H's business. Automobile Y is 50-percent bonus depreciation property for purposes of section 168(k)(4). Both automobiles are depreciated using the double declining balance method, the half-year convention, and a 5-year recovery period. Pursuant to § 1.168(k)–1(g)(3)(ii) and paragraph (k)(2)(i) of this section, H decided to apply § 1.168(i)–6 to the exchange of Automobile X for Automobile Y, the replacement MACRS property. The relinquished automobile section 280F limit for 2003 for Automobile X is $1,775. The replacement automobile section 280F limit for Automobile Y is $10,710. The exchanged basis for Automobile Y is $17,315 ($30,000 less total depreciation allowable of $12,685 (($3,060 for 2000, $4,900 for 2001, $2,950 for 2002, and $1,775 for 2003)). Without taking section 280F into account, the additional first year depreciation deduction for the remaining exchanged basis is $8,658 ($17,315 × 0.5). Because this amount is less than $8,935 ($10,710 (the replacement automobile section 280F limit for 2003 for Automobile Y) − $1,775 (the depreciation allowable for Automobile X for 2003)), the additional first year depreciation deduction for the exchanged basis is $8,658. No depreciation deduction is allowable in 2003 for the depreciable exchanged basis because the depreciation deductions taken for Automobile X and the remaining exchanged basis exceed the exchanged automobile section 280F limit. An additional first year depreciation deduction of $277 is allowable for the excess basis of $15,000 in Automobile Y. Thus, at the end of 2003 the adjusted depreciable basis in Automobile Y is $23,379 comprised of adjusted depreciable exchanged basis of $8,657 ($17,315 (exchanged basis) − $8,658 (additional first year depreciation for exchanged basis)) and of an adjusted depreciable excess basis of $14,723 ($15,000 (excess basis) − $277 (additional first year depreciation for 2003)).

Example 2. The facts are the same as in *Example 1*, except that H used Automobile X only 75 percent for business use. As such, the total allowable depreciation for Automobile X is reduced to reflect that the automobile is only used 75 percent for business. The total allowable depreciation of Automobile X is $9,513.75 ($2,295 for 2000 ($3,060 limit × .75), $3,675 for 2001 ($4,900 limit × .75), $2,212.50 for 2002 ($2,950 limit × .75), and $1,331.25 for 2003 ($1,775 limit × .75). However, under § 1.280F–2T(g)(2)(ii)(A), the exchanged basis is reduced by the excess (if any) of the depreciation that would have been allowable if the exchanged automobile had been used solely for business over the depreciation that was allowable in those years. Thus, the exchanged basis, for purposes of computing depreciation, for Automobile Y is $17,315.

Example 3. The facts are the same as in *Example 1,* except that H placed in service Automobile X in January 2002, and H elected not to claim the additional first year depreciation deduction for 5-year property placed in service in 2002 and 2003. The relinquished automobile section 280F limit for Automobile X for 2003 is $4,900. Because the replacement automobile section 280F limit for 2003 for Automobile Y ($3,060) is less than the relinquished automobile section 280F limit for Automobile X for 2003 and is less than $5,388 (($30,000 (cost) − $3,060 (depreciation allowable for 2002)) × 0.4 × 6/12), the depreciation that would be allowable for Automobile X (determined without regard to section 280F) in the year of disposition, the depreciation for Automobile X in the year of disposition is limited to $3,060. For 2003 no depreciation is allowable for the excess basis and the exchanged basis in Automobile Y.

Example 4. AB, a calendar-year taxpayer, purchased and placed in service Automobile X1 in February 2000 for $10,000. X1 is a passenger automobile subject to section 280F(a) and is used solely for AB's business. AB depreciated X1 using a 5-year recovery period, the double declining balance method, and the half-year convention. As of January 1, 2003, the adjusted depreciable basis of X1 was $2,880 ($10,000 original cost minus $2,000 depreciation deduction for 2000, minus $3,200 depreciation deduction for 2001, and $1,920 depreciation deduction for 2002). In November 2003, AB exchanges, in a like-kind exchange, Automobile X1 plus $14,000 cash for new Automobile Y1 that will be used solely in AB's business. Automobile Y1 is 50-percent bonus depreciation property for purposes of section 168(k)(4) and qualifies for the expensing election under section 179. Pursuant to paragraph § 1.168(k)–1(g)(3)(ii) and paragraph (k)(2)(i) of this section, AB decided to apply § 1.168(i)–6 to the exchange of Automobile X1 for Automobile Y1, the replacement MACRS property. AB also makes the election under section 179 for the excess basis of Automobile Y1. AB depreciates Y1 using a five-year recovery period, the double declining balance method and the half-year convention. For 2003, the relinquished automobile section 280F limit for Automobile X1 is $1,775 and the replacement automobile section 280F limit for 2003 for Automobile Y1 is $10,710.

(i) The 2003 depreciation deduction for Automobile X1 is $576. The depreciation

deduction calculated for X1 is $576 (the adjusted depreciable basis of Automobile X1 at the beginning of 2003 of $2,880 × 40% × ½ year), which is less than the relinquished automobile section 280F limit and the replacement automobile section 280F limit.

(ii) The additional first year depreciation deduction for the exchanged basis is $1,152. The additional first year depreciation deduction of $1,152 (remaining exchanged basis of $2,304 ($2,880 adjusted basis of Automobile X1 at the beginning of 2003 minus $576) − 0.5)) is less than the replacement automobile section 280F limit minus $576.

(iii) AB's MACRS depreciation deduction allowable in 2003 for the remaining exchanged basis of $1,152 is $47 (the relinquished automobile section 280F limit of $1,775 less the depreciation deduction of $576 taken for Automobile X1 less the additional first year depreciation deduction of $1,152 taken for the exchanged basis) which is less than the depreciation deduction calculated for the depreciable exchanged basis.

(iv) For 2003, AB takes a $1,400 section 179 deduction for the excess basis of Automobile Y1. AB must reduce the excess basis of $14,000 by the section 179 deduction of $1,400 to determine the remaining excess basis of $12,600.

(v) For 2003, AB is allowed a 50-percent additional first year depreciation deduction of $6,300 (the remaining excess basis of $12,600 multiplied by .50).

(vi) For 2003, AB's depreciation deduction for the depreciable excess basis is limited to $1,235. The depreciation deduction computed without regard to the replacement automobile section 280F limit is $1,260 ($6,300 depreciable excess basis × 0.4 × 6/12). However the depreciation deduction for the depreciable excess basis is limited to $1,235 ($10,710 (replacement automobile section 280F limit) − $576 (depreciation deduction for Automobile X1) − $1,152 (additional first year depreciation deduction for the exchanged basis) − $47 (depreciation deduction for exchanged basis) − 1,400 (section 179 deduction) − $6,300 (additional first year depreciation deduction for remaining excess basis)).

(4) *Involuntary conversion for which the replacement MACRS property is acquired and placed in service before disposition of relinquished MACRS property.* If, in an involuntary conversion, a taxpayer acquires and places in service the replacement MACRS property before the date of disposition of the relinquished MACRS property, the taxpayer depreciates the unadjusted depreciable basis of the replacement MACRS property under section 168 beginning in the taxable year when the replacement MACRS property is placed in service by the taxpayer and by using the applicable depreciation method, recovery period, and convention prescribed under section 168 for the replacement MACRS property at the placed-in-service date. However, at the time of disposition of the relinquished MACRS property, the taxpayer determines the exchanged basis and the excess basis of the replacement MACRS property and begins to depreciate the depreciable exchanged basis of the replacement MACRS property in accordance with paragraph (c) of this section. The depreciable excess basis of the replacement MACRS property continues to be depreciated by the taxpayer in accordance with the first sentence of this paragraph (d)(4). Further, in the year of disposition of the relinquished MACRS property, the taxpayer must include in taxable income the excess of the depreciation deductions allowable on the unadjusted depreciable basis of the replacement MACRS property over the depreciation deductions that would have been allowable to the taxpayer on the depreciable excess basis of the replacement MACRS property from the date the replacement MACRS property was placed in service by the taxpayer (taking into account the applicable convention) to the time of disposition of the relinquished MACRS property. However, see § 1.168(k)–1(f)(5)(v) for replacement MACRS property that is qualified property or 50-percent bonus depreciation property and § 1.1400L(b)–1(f)(5) for replacement MACRS property that is qualified New York Liberty Zone property.

(e) *Use of optional depreciation tables*—(1) *Taxpayer not bound by prior use of table.* If a taxpayer used an optional depreciation table for the relinquished MACRS property, the taxpayer is not required to use an optional table for the depreciable exchanged basis of the replacement MACRS property. Conversely, if a taxpayer did not use an optional depreciation table for the relinquished MACRS property, the taxpayer may use the appropriate table for the depreciable exchanged basis of the replacement MACRS property. If a taxpayer decides not to use the table for the depreciable exchanged basis of the replacement MACRS property, the depreciation allowance for this property for the year of replacement and subsequent taxable years is determined under paragraph (c) of this section. If a taxpayer decides to use the optional depreciation tables, no depreciation deduction is allowable for MACRS property placed in service by the acquiring taxpayer and subsequently exchanged or involuntarily converted by such taxpayer in the same taxable year, and, if, during the same taxable year, MACRS property is placed in service by the acquiring taxpayer, exchanged or involuntarily converted by such taxpayer, and the replacement MACRS property is disposed of by such taxpayer, no depreciation deduction is allowable for either MACRS property.

(2) *Determination of the depreciation deduction*—(i) *Relinquished MACRS property.* In the year of disposition, the depreciation allowance for the relinquished MACRS property is computed by multiplying the unadjusted depreciable basis (less the amount of the additional first year depreciation deduction allowed or allowable, whichever is greater, under section 168(k) or section 1400L(b), as applicable) of the relinquished MACRS property by the annual depreciation rate (expressed as a decimal equivalent) specified in the appropriate table for the recovery year corresponding to the year of disposition. This product is then multiplied by a fraction, the numerator of which is the number of months (including fractions of months) the property is deemed to be placed in service during the year of the exchange or involuntary conversion (taking into account the applicable convention) and the denominator of which is 12. However, if the year of disposition is less than 12 months, the depreciation allowance determined under this paragraph (e)(2)(i) must be adjusted for a short taxable year (for further guidance, for example, see Rev. Proc. 89–15 (1989–1 CB 816) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(ii) *Replacement MACRS property*—(A) *Determination of the appropriate optional depreciation table.* If a taxpayer chooses to use the appropriate optional depreciation table for the depreciable exchanged basis, the depreciation allowances for the depreciable exchanged basis beginning in the year of replacement are determined by choosing the optional depreciation table that corresponds to the recovery period, depreciation method, and convention of the replacement MACRS property determined under paragraph (c) of this section.

(B) *Calculating the depreciation deduction for the replacement MACRS property.* (*1*) The depreciation deduction for the taxable year is computed by first determining the appropriate recovery year in the table identified under paragraph (e)(2)(ii)(A) of this section. The appropriate recovery year for the year of replacement is the same as the recovery year for the year of disposition, regardless of the taxable year in which the replacement property is acquired. For example, if the recovery year for the year of disposition would have been year 4 in the table that applied before the disposition of the relinquished MACRS property, then the recovery year for the year of

replacement is Year 4 in the table identified under paragraph (e)(2)(ii)(A) of this section.

(*2*) Next, the annual depreciation rate (expressed as a decimal equivalent) for each recovery year is multiplied by a transaction coefficient. The transaction coefficient is the formula (1 / (1 − x)) where x equals the sum of the annual depreciation rates from the table identified under paragraph (e)(2)(ii)(A) of this section (expressed as a decimal equivalent) corresponding to the replacement MACRS property (as determined under paragraph (e)(2)(ii)(A) of this section) for the taxable years beginning with the placed-in-service year of the relinquished MACRS property through the taxable year immediately prior to the year of disposition. The product of the annual depreciation rate and the transaction coefficient is multiplied by the depreciable exchanged basis (taking into account paragraph (e)(2)(i) of this section). In the year of replacement, this product is then multiplied by a fraction, the numerator of which is the number of months (including fractions of months) the property is deemed to be placed in service by the acquiring taxpayer during the year of replacement (taking into account the applicable convention) and the denominator of which is 12. However, if the year of replacement is the year the relinquished MACRS property is placed in service by the acquiring taxpayer, the preceding sentence does not apply. In addition, if the year of replacement is less than 12 months, the depreciation allowance determined under paragraph (e)(2)(ii) of this section must be adjusted for a short taxable year (for further guidance, for example, see Rev. Proc. 89–15 (1989–1 CB 816) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(iii) *Unrecovered basis.* If the replacement MACRS property would have unrecovered depreciable basis after the final recovery year (for example, due to a deferred exchange), the unrecovered basis is an allowable depreciation deduction in the taxable year that corresponds to the final recovery year unless the unrecovered basis is subject to a depreciation limitation such as section 280F.

(3) *Excess basis.* As provided in paragraph (d)(1) of this section, any excess basis in the replacement MACRS property is treated as property that is placed in service by the acquiring taxpayer at the time of replacement. Thus, if the taxpayer chooses to use the appropriate optional depreciation table for the depreciable excess basis in the replacement MACRS property, the depreciation allowances for the depreciable excess basis are determined by multiplying the depreciable excess basis by the annual depreciation rate (expressed as a decimal equivalent) specified in the appropriate table for each taxable year. The appropriate table for the depreciable excess basis is based on the depreciation method, recovery period, and convention applicable to the depreciable excess basis under section 168 at the time of replacement. However, If the year of replacement is less than 12 months, the depreciation allowance determined under this paragraph (e)(3) must be adjusted for a short taxable year (for further guidance, for example, see Rev. Proc. 89–15 (1989–1 CB 816) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(4) *Examples.* The application of this paragraph (e) is illustrated by the following examples:

Example 1. J, a calendar-year taxpayer, acquired 5-year property for $10,000 and placed it in service in January 2001. J uses the optional tables to depreciate the property. J uses the half-year convention and did not make any elections for the property. In December 2003, J exchanges the 5-year property for used 7-year property in a like-kind exchange. Pursuant to paragraph (k)(2)(i) of this section, J decided to apply § 1.168(i)–6 to the exchange of the 5-year property for the 7-year property, the replacement MACRS property. The depreciable exchanged basis of the 7-year property equals the adjusted depreciable basis of the 5-year property at the time of disposition of the relinquished MACRS property, namely $3,840 ($10,000 less $2,000 depreciation in 2001, $3,200 depreciation in 2002, and $960 depreciation in 2003). J must first determine the appropriate optional depreciation table pursuant to paragraph (c) of this section. Since the replacement MACRS property has a longer recovery period and the same depreciation method as the relinquished MACRS property, J uses the optional depreciation table corresponding to a 7-year recovery period, the 200% declining balance method, and the half-year convention (because the 5-year property was depreciated using a half-year convention). Had the replacement MACRS property been placed in service in the same taxable year as the placed-in-service year of the relinquished MACRS property, the depreciation allowance for the replacement MACRS property for the year of replacement would be determined using recovery year 3 of the optional table. The depreciation allowance equals the depreciable exchanged basis ($3,840) multiplied by the annual depreciation rate for the current taxable year (.1749 for recovery year 3) as modified by the transaction coefficient [1 / (1 − (.1429 + .2449))] which equals 1.6335. Thus, J multiplies $3,840, its depreciable exchanged basis in the replacement MACRS property, by the product of .1749 and 1.6335, and then by one-half, to determine the depreciation allowance for 2003, $549. For 2004, J multiples its depreciable exchanged basis in the replacement MACRS property determined at the time of replacement of $3,840 by the product of the modified annual depreciation rate for the current taxable year (.1249 for recovery year 4) and the transaction coefficient (1.6335) to determine its depreciation allowance of $783.

Example 2. K, a calendar-year taxpayer, acquired used Asset V for $100,000 and placed it in service in January 1999. K depreciated Asset V under the general depreciation system of section 168(a) by using a 5-year recovery period, the 200-percent declining balance method of depreciation, and the half-year convention. In December 2003, as part of the involuntary conversion, Asset V is involuntarily converted due to an earthquake. In October 2005, K purchases used Asset W with the insurance proceeds from the destruction of Asset V and places Asset W in service to replace Asset V. Pursuant to paragraph (k)(2)(i) of this section, K decided to apply § 1.168(i)–6 to the involuntary conversion of Asset V with the replacement of Asset W, the replacement MACRS property. If Asset W had been placed in service when Asset V was placed in service, it would have been depreciated using a 7-year recovery period, the 200-percent declining balance method, and the half-year convention. K uses the optional depreciation tables to depreciate Asset V and Asset W. For 2003 (recovery year 5 on the optional table), the depreciation deduction for Asset V is $5,760 ((0.1152)($100,000)(1/2)). Thus, the adjusted depreciable basis of Asset V at the time of replacement is $11,520 ($100,000 less $20,000 depreciation in 1999, $32,000 depreciation in 2000, $19,200 depreciation in 2001, $11,520 depreciation in 2002, and $5,760 depreciation in 2003). Under the table that applied to Asset V, the year of disposition was recovery year 5 and the depreciation deduction was determined under the straight line method. The table that applies for Asset W is the table that applies the straight line depreciation method, the half-year convention, and a 7-year recovery period. The appropriate recovery year under this table is recovery year 5. The depreciation deduction for Asset W for 2005 is $1,646 (($11,520)(0.1429)(1/(1 − 0.5))(1/2)). Thus, the depreciation deduction for Asset W in 2006 (recovery year 6) is $3,290 ($11,520)(0.1428)(1/(1 − 0.5)). The depreciation deduction for 2007 (recovery year 7) is $3,292 (($11,520)(.1429)(1/(1 − .5))). The depreciation deduction for 2008 (recovery year 8) is $3292 ($11,520 less allowable depreciation for Asset W for 2005 through 2007 ($1,646 + $3,290 + $3,292)).

Example 3. L, a calendar-year taxpayer, placed in service used Computer X in January 2002 for $5,000. L depreciated Computer X under the general depreciation system of section 168(a) by using the 200-percent declining balance method of depreciation, a 5-year recovery period, and the half-year convention. Computer X is destroyed in a fire in March 2004. For 2004, the depreciation deduction allowable for Computer X equals $480 ([($5,000)(.1920)] × (1/2)). Thus, the adjusted depreciable basis of Computer X was $1,920 when it was destroyed ($5,000 unadjusted depreciable

basis less $1,000 depreciation for 2002, $1,600 depreciation for 2003, and $480 depreciation for 2004). In April 2004, as part of the involuntary conversion, L acquired and placed in service used Computer Y with insurance proceeds received due to the loss of Computer X. Computer Y will be depreciated using the same depreciation method, recovery period, and convention as Computer X. L elected to use the optional depreciation tables to compute the depreciation allowance for Computer X and Computer Y. The depreciation deduction allowable for 2004 for Computer Y equals $384 ([$1,920 × (.1920)(1/(1 − .52))] × (1/2)).

(f) *Mid-quarter convention.* For purposes of applying the 40-percent test under section 168(d) and the regulations under section 168(d), the following rules apply:

(1) *Exchanged basis.* If, in a taxable year, MACRS property is placed in service by the acquiring taxpayer (but not as a result of a like-kind exchange or involuntary conversion) and—

(i) In the same taxable year, is disposed of by the acquiring taxpayer in a like-kind exchange or an involuntary conversion and replaced by the acquiring taxpayer with replacement MACRS property, the exchanged basis (determined without any adjustments for depreciation deductions during the taxable year) of the replacement MACRS property is taken into account in the year of replacement in the quarter the relinquished MACRS property was placed in service by the acquiring taxpayer; or

(ii) In the same taxable year, is disposed of by the acquiring taxpayer in a like-kind exchange or an involuntary conversion, and in a subsequent taxable year is replaced by the acquiring taxpayer with replacement MACRS property, the exchanged basis (determined without any adjustments for depreciation deductions during the taxable year) of the replacement MACRS property is taken into account in the year of replacement in the quarter the replacement MACRS property was placed in service by the acquiring taxpayer; or

(iii) In a subsequent taxable year, disposed of by the acquiring taxpayer in a like-kind exchange or involuntary conversion, the exchanged basis of the replacement MACRS property is not taken into account in the year of replacement.

(2) *Excess basis.* Any excess basis is taken into account in the quarter the replacement MACRS property is placed in service by the acquiring taxpayer.

(3) *Depreciable property acquired for nondepreciable property.* Both the exchanged basis and excess basis of the replacement MACRS property described in paragraph (d)(2)(ii) of this section (depreciable property acquired for nondepreciable property), are taken into account for determining whether the mid-quarter convention applies in the year of replacement.

(g) *Section 179 election.* In applying the section 179 election, only the excess basis, if any, in the replacement MACRS property is taken into account. If the replacement MACRS property is described in paragraph (d)(2)(ii) of this section (depreciable property acquired for nondepreciable property), only the excess basis in the replacement MACRS property is taken into account.

(h) *Additional first year depreciation deduction.* See § 1.168(k)–1(f)(5) (for qualified property or 50-percent bonus depreciation property) and § 1.1400L(b)–1(f)(5) (for qualified New York Liberty Zone property).

(i) *Elections*—(1) *Election not to apply this section.* A taxpayer may elect not to apply this section for any MACRS property involved in a like-kind exchange or involuntary conversion. An election under this paragraph (i)(1) applies only to the taxpayer making the election and the election applies to both the relinquished MACRS property and the replacement MACRS property. If an election is made under this paragraph (i)(1), the depreciation allowances for the replacement MACRS property beginning in the year of replacement and for the relinquished MACRS property in the year of disposition are not determined under this section (except as otherwise provided in this paragraph). Instead, for depreciation purposes only, the sum of the exchanged basis and excess basis, if any, in the replacement MACRS property is treated as property placed in service by the taxpayer at the time of replacement and the adjusted depreciable basis of the relinquished MACRS property is treated as being disposed of by the taxpayer at the time of disposition. While the relinquished MACRS property is treated as being disposed of at the time of disposition for depreciation purposes, the election not to apply this section does not affect the application of sections 1031 and 1033 (for example, if a taxpayer does not make the election under this paragraph (i)(1) and does not recognize gain or loss under section 1031, this result would not change if the taxpayer chose to make the election under this paragraph (i)(1)). In addition, the election not to apply this section does not affect the application of sections 1245 and 1250 to the relinquished MACRS property. Paragraphs (c)(5)(i) (determination of depreciation for relinquished MACRS property in the year of disposition), (c)(5)(iii) (rules for deferred transactions), (g) (section 179 election), and (h) (additional first year depreciation deduction) of this section apply to property to which this paragraph (i)(1) applies. See paragraph (j) of this section for the time and manner of making the election under this paragraph (i)(1).

(2) *Election to treat certain replacement property as MACRS property.* If the tangible depreciable property acquired by a taxpayer in a like-kind exchange or involuntary conversion (the replacement property) replaces tangible depreciable property for which the taxpayer made a valid election under section 168(f)(1) to exclude it from the application of MACRS (the relinquished property), the taxpayer may elect to treat, for depreciation purposes only, the sum of the exchanged basis and excess basis, if any, of the replacement property as MACRS property that is placed in service by the taxpayer at the time of replacement. An election under this paragraph (i)(2) applies only to the taxpayer making the election and the election applies to both the relinquished property and the replacement property. If an election is made under this paragraph (i)(2), the adjusted depreciable basis of the relinquished property is treated as being disposed of by the taxpayer at the time of disposition. Rules similar to those provided in §§ 1.168(i)–6(b)(3) and (4) apply for purposes of determining the time of disposition and time of replacement under this paragraph (i)(2). While the relinquished property is treated as being disposed of at the time of disposition for depreciation purposes, the election under this paragraph (i)(2) does not affect the application of sections 1031 and 1033, and the application of sections 1245 and 1250 to the relinquished property. If an election is made under this paragraph (i)(2), rules similar to those provided in paragraphs (c)(5)(iii) (rules for deferred transactions), (g) (section 179 election), and (h) (additional first year depreciation deduction) of this section apply to property. Except as provided in paragraph (k)(3)(ii) of this section, a taxpayer makes the election under this paragraph (i)(2) by claiming the depreciation allowance as determined under MACRS for the replacement property on the taxpayer's timely filed (including extensions) original Federal tax return for the placed-in-service year of the replacement property as determined under this paragraph (i)(2).

(j) *Time and manner of making election under paragraph (i)(1) of this section*—(1) *In general.* The election provided in paragraph (i)(1) of this

section is made separately by each person acquiring replacement MACRS property. The election is made for each member of a consolidated group by the common parent of the group, by the partnership (and not by the partners separately) in the case of a partnership, or by the S corporation (and not by the shareholders separately) in the case of an S corporation. A separate election under paragraph (i)(1) of this section is required for each like-kind exchange or involuntary conversion. The election provided in paragraph (i)(1) of this section must be made within the time and manner provided in paragraph (j)(2) and (3) of this section and may not be made by the taxpayer in any other manner (for example, the election cannot be made through a request under section 446(e) to change the taxpayer's method of accounting), except as provided in paragraph (k)(2) of this section.

(2) *Time for making election.* The election provided in paragraph (i)(1) of this section must be made by the due date (including extensions) of the taxpayer's Federal tax return for the year of replacement.

(3) *Manner of making election.* The election provided in paragraph (i)(1) of this section is made in the manner provided for on Form 4562, Depreciation and Amortization, and its instructions. If Form 4562 is revised or renumbered, any reference in this section to that form is treated as a reference to the revised or renumbered form.

(4) *Revocation.* The election provided in paragraph (i)(1) of this section, once made, may be revoked only with the consent of the Commissioner of Internal Revenue. Such consent will be granted only in extraordinary circumstances. Requests for consent are requests for a letter ruling and must be filed with the Commissioner of Internal Revenue, Washington, DC 20224. Requests for consent may not be made in any other manner (for example, through a request under section 446(e) to change the taxpayer's method of accounting).

(k) *Effective date*—(1) *In general.* Except as provided in paragraph (k)(3) of this section, this section applies to a like-kind exchange or an involuntary conversion of MACRS property for which the time of disposition and the time of replacement both occur after February 27, 2004.

(2) *Application to pre-effective date like-kind exchanges and involuntary conversions.* For a like-kind exchange or an involuntary conversion of MACRS property for which the time of disposition, the time of replacement, or both occur on or before February 27, 2004, a taxpayer may—

(i) Apply the provisions of this section. If a taxpayer's applicable Federal tax return has been filed on or before February 27, 2004, and the taxpayer has treated the replacement MACRS property as acquired, and the relinquished MACRS property as disposed of, in a like-kind exchange or an involuntary conversion, the taxpayer changes its method of accounting for depreciation of the replacement MACRS property and relinquished MACRS property in accordance with this paragraph (k)(2)(i) by following the applicable administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in method of accounting (for further guidance, see Rev. Proc. 2002–9 (2002–1 CB 327) and § 601.601(d)(2)(ii)(*b*) of this chapter); or

(ii) Rely on prior guidance issued by the Internal Revenue Service for determining the depreciation deductions of replacement MACRS property and relinquished MACRS property (for further guidance, for example, see Notice 2000–4 (2001–1 CB 313) and § 601.601(d)(2)(ii)(*b*) of this chapter). In relying on such guidance, a taxpayer may use any reasonable, consistent method of determining depreciation in the year of disposition and the year of replacement. If a taxpayer's applicable Federal tax return has been filed on or before February 27, 2004, and the taxpayer has treated the replacement MACRS property as acquired, and the relinquished MACRS property as disposed of, in a like-kind exchange or an involuntary conversion, the taxpayer changes its method of accounting for depreciation of the replacement MACRS property and relinquished MACRS property in accordance with this paragraph (k)(2)(ii) by following the applicable administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in method of accounting (for further guidance, see Rev. Proc. 2002–9 (2002–1 CB 327) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(3) *Like-kind exchanges and involuntary conversions where the taxpayer made the election under section 168(f)(1) for the relinquished property*— (i) *In general.* If the tangible depreciable property acquired by a taxpayer in a like-kind exchange or involuntary conversion (the replacement property) replaces tangible depreciable property for which the taxpayer made a valid election under section 168(f)(1) to exclude it from the application of MACRS (the relinquished property), paragraph (i)(2) of this section applies to such relinquished property and replacement property for which the time of disposition and the time of replacement (both as determined under paragraph (i)(2) of this section) both occur after February 26, 2007.

(ii) *Application of paragraph (i)(2) of this section to pre-February 26, 2007 like-kind exchanges and involuntary conversions.* If the tangible depreciable property acquired by a taxpayer in a like-kind exchange or involuntary conversion (the replacement property) replaces tangible depreciable property for which the taxpayer made a valid election under section 168(f)(1) to exclude it from the application of MACRS (the relinquished property), the taxpayer may apply paragraph (i)(2) of this section to the relinquished property and the replacement property for which the time of disposition, the time of replacement (both as determined under paragraph (i)(2) of this section), or both occur on or before February 26, 2007. If the taxpayer wants to apply paragraph (i)(2) of this section and the taxpayer's applicable Federal tax return has been filed on or before February 26, 2007, the taxpayer must change its method of accounting for depreciation of the replacement property and relinquished property in accordance with this paragraph (k)(3)(ii) by following the applicable administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in method of accounting (for further guidance, see Rev. Proc. 2002–9 (2002–1 CB 327) and § 601.601(d)(2)(ii)(b) of this chapter).

§ 1.168(i)–6T [Removed]

■ **Par. 13.** Section 1.168(i)–6T is removed.

■ **Par. 14.** Section 1.168(k)–1 is amended as follows:

■ 1. The second and third sentences in paragraph (f)(5)(v)(B) are revised.

■ 2. The last sentences in Example 1(i), Example 3(i), Example 4(i), and Example 5(i) in paragraph (f)(5)(vi) are revised.

■ 3. Paragraph (g)(3)(ii) is revised.

The revisions read as follows:

§ 1.168(k)–1 Additional first year depreciation.

* * * * *

(f) * * *

(5) * * *

(v) * * *

(B) * * * However, at the time of disposition of the involuntarily converted MACRS property, the taxpayer determines the exchanged basis (as defined in § 1.168(i)–6(b)(7)) and the excess basis (as defined in

§ 1.168(i)–6(b)(8)) of the acquired MACRS property and begins to depreciate the depreciable exchanged basis (as defined in § 1.168(i)–6(b)(9) of the acquired MACRS property in accordance with § 1.168(i)–6(c). The depreciable excess basis (as defined in § 1.168(i)–6(b)(10)) of the acquired MACRS property continues to be depreciated by the taxpayer in accordance with the first sentence of this paragraph (f)(5)(v)(B).

* * * * *

(vi) * * *

Example 1. (i) * * * Pursuant to paragraph (g)(3)(ii) of this section and § 1.168(i)–6(k)(2)(i), EE decided to apply § 1.168(i)–6 to the involuntary conversion of Canopy V1 with the replacement of Canopy W1, the acquired MACRS property.

* * * * *

Example 3. (i) * * * Pursuant to paragraph (g)(3)(ii) of this section and § 1.168(i)–6(k)(2)(i), FF decided to apply § 1.168(i)–6 to the exchange of Computer X2 for Computer Y2, the acquired MACRS property.

* * * * *

Example 4. (i) * * * Pursuant to paragraph (g)(3)(ii) of this section and § 1.168(i)–6(k)(2)(i), GG decided to apply § 1.168(i)–6 to the exchange of Equipment X3 for Equipment Y3, the acquired MACRS property.

* * * * *

Example 5. (i) * * * Pursuant to paragraph (g)(3)(ii) of this section and § 1.168(i)–6(k)(2)(i), GG decided to apply § 1.168(i)–6 to the exchange of Equipment Y3 for Equipment Z1, the acquired MACRS property.

* * * * *

(g) * * *

(3) * * *

(ii) Paragraphs (f)(5)(ii)(F)(*2*) and (f)(5)(v) of this section apply to a like-kind exchange or an involuntary conversion of MACRS property and computer software for which the time of disposition and the time of replacement both occur after February 27, 2004. For a like-kind exchange or an involuntary conversion of MACRS property for which the time of disposition, the time of replacement, or both occur on or before February 27, 2004, see § 1.168(i)–6(k)(2)(ii). For a like-kind exchange or involuntary conversion of computer software for which the time of disposition, the time of replacement, or both occur on or before February 27, 2004, a taxpayer may rely on prior guidance issued by the Internal Revenue Service for determining the depreciation deductions of the acquired computer software and the exchanged or involuntarily converted computer software (for further guidance, see § 1.168(k)–1T(f)(5) published in the **Federal Register** on September 8, 2003 (68 FR 53000)). In relying on such guidance, a taxpayer may use any reasonable, consistent method of determining depreciation in the year of disposition and the year of replacement.

* * * * *

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: February 23, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 07–922 Filed 2–26–07; 3:25 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9313]

RIN 1545–BG29

Corporate Reorganizations; Additional Guidance on Distributions Under Sections 368(a)(1)(D) and 354(b)(1)(B)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations amending § 1.368–2T(l), which provides guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation are issued and distributed in the transaction. These regulations clarify that the rules in § 1.368–2T(l) are not intended to affect the qualification of related party triangular asset acquisitions as reorganizations described in section 368. These regulations affect corporations engaging in such transactions and their shareholders. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on March 1, 2007.

Applicability Date: For dates of applicability, see § 1.368–2T(l)(4)(i).

FOR FURTHER INFORMATION CONTACT: Bruce A. Decker at (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2006, the IRS and Treasury Department published temporary regulations (TD 9303) under § 1.368–2T(l) in the **Federal Register** (71 FR 75879) providing guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation are issued and distributed in the transaction. Under the temporary regulations, in cases where it is determined that the same person or persons own, directly or indirectly, all of the stock of the transferor and transferee corporations in identical proportions, the distribution requirement under sections 368(a)(1)(D) and 354(b)(1)(B) will be treated as satisfied even though no stock is actually issued in the transaction.

In each case where it is determined that the same person or persons own all of the stock of the transferor and transferee corporations in identical proportions, a nominal share of stock of the transferee corporation will be deemed issued in addition to the actual consideration exchanged in the transaction. The nominal share of stock in the transferee corporation will then be deemed distributed by the transferor corporation to its shareholders and, in appropriate circumstances, further transferred to the extent necessary to reflect the actual ownership of the transferor and transferee corporations.

The IRS and Treasury Department have become aware that the temporary regulations may have unintended consequences regarding related party triangular asset acquisitions otherwise qualifying under section 368. Specifically, the temporary regulations may cause certain related party asset acquisitions that would otherwise qualify as tax-free triangular reorganizations to be treated as reorganizations described in section 368(a)(1)(D) with boot.

For example, the temporary regulations may cause a related party transaction that would otherwise qualify as a tax-free reorganization described in section 368(a)(1)(C) in which substantially all of the target corporation's properties are acquired solely in exchange for voting stock of the corporation in control of the acquiring corporation to also be described in section 368(a)(1)(D). If so, section 368(a)(2)(A) would preclude the transaction from being treated as described in section 368(a)(1)(C). Accordingly, the transaction would be treated as described only in section 368(a)(1)(D), and the voting stock of the corporation in control of the acquiring corporation would be treated as boot. Further, the temporary regulations may cause a related party transaction that

would otherwise qualify as a tax-free reorganization described in section 368(a)(1)(A) by reason of section 368(a)(2)(D) from so qualifying because the deemed issuance of a nominal share of stock of the acquiring corporation would violate the requirements of section 368(a)(2)(D)(i). If so, the transaction would be treated as described only in section 368(a)(1)(D), and the stock of the corporation in control of the acquiring corporation would be treated as boot.

The IRS and Treasury Department did not intend for the temporary regulations to apply to such transactions.

Explanation of Provisions

These temporary regulations clarify and amend the temporary regulations (TD 9303) under § 1.368–2T(l) by providing that the deemed issuance of the nominal share of stock of the transferee corporation in a transaction otherwise described in section 368(a)(1)(D) does not apply if the transaction otherwise qualifies as a triangular reorganization described in § 1.358–6(b)(2) or section 368(a)(1)(G) by reason of section 368(a)(2)(D). Accordingly, if a transaction qualifies as a triangular reorganization described in § 1.358–6(b)(2) or section 368(a)(1)(G) by reason of section 368(a)(2)(D) without regard to the temporary regulations, it will not be treated as a reorganization described in section 368(a)(1)(D).

Special Analyses

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

Drafting Information

The principal author of these regulations is Bruce A. Decker of the Office of the Associate Chief Counsel (Corporate).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.368–2T is amended by adding paragraph (l)(2)(iv) to read as follows:

§ 1.368–2T Definition of terms (temporary).

* * * * *

(l) * * *

(2) * * *

(iv) *Exception.* Paragraph (l)(2) of this section does not apply to a transaction otherwise described in § 1.358–6(b)(2) or section 368(a)(1)(G) by reason of section 368(a)(2)(D).

* * * * *

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: February 21, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–3534 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R08–ND–2006–0001; FRL–8274–6]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by the State of North Dakota that are incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by North Dakota and approved by EPA.

DATES: *Effective Date:* This action is effective March 1, 2007.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays, at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that, if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to arrange a time to view the hard copy of the North Dakota SIP compilation. An electronic copy of the North Dakota regulations we have approved for incorporation into the SIP are also available by accessing *http://www.epa.gov/region8/air/sip.html.* A hard copy of the regulatory and source-specific portions of the compilation will also be maintained at the Air and Radiation Docket and Information Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460 and the National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Amy Platt, EPA Region 8, at (303) 312–6449, or *Platt.Amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used it means the EPA.

Table of Contents

I. Change in IBR Format

This format revision will affect the ''Identification of plan'' section of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA); the Air and Radiation Docket and Information Center located at EPA

Headquarters in Washington, DC, and the EPA Region 8 Office.

A. Description of a SIP

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS) and achieve certain other Clean Air Act (Act) requirements (e.g., visibility requirements, prevention of significant deterioration). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network descriptions, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces the SIP

Each SIP revision submitted by North Dakota must be adopted at the state level after undergoing reasonable notice and public hearing. SIPs submitted to EPA to attain or maintain the NAAQS must include enforceable emission limitations and other control measures, schedules and timetables for compliance.

EPA evaluates submitted SIPs to determine if they meet the Act's requirements. If a SIP meets the Act's requirements, EPA will approve the SIP. EPA's notice of approval is published in the **Federal Register** and the approval is then codified in the Code of Federal Regulations (CFR) at 40 CFR part 52. Once EPA approves a SIP, it is enforceable by EPA and citizens in Federal district court.

We do not reproduce in 40 CFR part 52 the full text of the North Dakota regulations that we have approved; instead, we incorporate them by reference (''IBR''). We approve a given state regulation with a specific effective date and then refer the public to the location(s) of the full text version of the state regulation(s) should they want to know which measures are contained in a given SIP (see ''I.F. Where You Can Find a Copy of the SIP Compilation'').

C. How the State and EPA Update the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations.

On May 22, 1997 (62 FR 27968), EPA announced revised procedures for incorporating by reference federally approved SIPs. The procedures announced included: (1) A new process for incorporating by reference material submitted by states into compilations and a process for updating those compilations on roughly an annual basis; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the compilations and the CFR; and (3) a revised format for the ''Identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures.

D. How EPA Compiles the SIP

We have organized into a compilation the federally-approved regulations, source-specific requirements and nonregulatory provisions we have approved into the SIP. We maintain hard copies of the compilation in binders and we primarily update these binders on an annual basis.

E. How EPA Organizes the SIP Compilation

Each compilation contains three parts. Part one contains the state regulations, part two contains the source-specific requirements that have been approved as part of the SIP (if any), and part three contains nonregulatory provisions that we have approved. Each compilation contains a table of identifying information for each regulation, each source-specific requirement, and each nonregulatory provision. The state effective dates in the tables indicate the date of the most recent revision to a particular regulation. The table of identifying information in the compilation corresponds to the table of contents published in 40 CFR part 52 for the state. The EPA Regional Offices have the primary responsibility for ensuring accuracy and updating the compilations.

F. Where You Can Find a Copy of the SIP Compilation

EPA Region 8 developed and will maintain a hard copy of the compilation for North Dakota. An electronic copy of the North Dakota regulations we have approved are available on the following Web site: *http://www.epa.gov/region8/air/sip.html.* A hard copy of the regulatory and source-specific portions of the compilation will also be maintained at the Air and Radiation Docket and Information Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460; and National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA has revised the organization of the ''Identification of plan'' section in 40 CFR part 52 and included additional information to clarify the elements of the SIP.

The revised Identification of plan section for North Dakota contains five subsections:

1. Purpose and scope (see 40 CFR 52.1820(a));
2. Incorporation by reference (see 40 CFR 52.1820(b));
3. EPA-approved regulations (see 40 CFR 52.1820(c));
4. EPA-approved source-specific requirements (see 40 CFR 52.1820(d)); and
5. EPA-approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc. (see 40 CFR 52.1820(e)).

H. When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP are Federally enforceable as of the effective date of EPA's approval of the respective revisions. In general, SIP revisions become effective 30 to 60 days after publication of EPA's SIP approval action in the **Federal Register**. In specific cases, a SIP revision action may become effective less than 30 days or greater than 60 days after the **Federal Register** publication date. In order to determine the effective date of EPA's approval for a specific North Dakota SIP provision that is listed in paragraph 40 CFR 52.1820 (c), (d), or (e), consult the volume and page of the **Federal Register** cited in the ''EPA approval date'' column of 40 CFR 52.1820 for that particular provision.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and to provide a smooth transition to the new SIP processing system, we are retaining the original Identification of plan section (see 40 CFR 52.1837). This section previously appeared at 40 CFR 52.1820. After an initial two-year period, we will review our experience with the new table format and will decide whether or not to retain the original Identification of plan section (40 CFR 52.1837) for some further period.

II. What EPA Is Doing in This Action

Today's action constitutes a ''housekeeping'' exercise to reformat the codification of the EPA-approved North Dakota SIP.

III. Good Cause Exemption

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon a finding of ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply reformats the codification of provisions which are already in effect as a matter of law.

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Likewise, there is no purpose served by delaying the effective date of this action.

IV. Statutory and Executive Order Review

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules is discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply reformats the codification of provisions which are already in effect as a matter of law. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of March 1, 2007. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. These corrections to the Identification of plan for South Dakota is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the North Dakota SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need to reopen the 60-day period for filing such petitions for judicial review for this reorganization of the ''Identification of plan'' section of 40 CFR 52.1820 for North Dakota.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 19, 2006.

Robert E. Roberts,

Regional Administrator, Region 8.

■ Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

■ 1. The authority for citation for part 52 continues to read as follows:

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

Subpart JJ—North Dakota

■ 2. Section 52.1820 is redesignated as § 52.1837 and the section heading and paragraph (a) are revised to read as follows:

§ 52.1837 Original identification of plan section.

(a) This section identifies the original ''Air Implementation Plan for the State

of North Dakota'' and all revisions submitted by North Dakota that were federally approved prior to July 31, 2006.

* * * * *

■ 3. A new § 52.1820 is added to read as follows:

§ 52.1820 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State Implementation Plan for North Dakota under section 110 of the Clean Air Act, 42 U.S.C. 7410 and 40 CFR part 51 to meet national ambient air quality standards or other requirements under the Clean Air Act.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c), (d), and (e) of this section with an EPA approval date prior to July 31, 2006, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. § 552(a) and 1 CFR part 51. Material is incorporated as submitted by the state to EPA, and notice of any change in the material will be published in the **Federal Register**. Entries for paragraphs (c), (d), and (e) of this section with EPA approval dates after July 31, 2006, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 8 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the State Implementation Plan as of July 31, 2006.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202–1129; Air and Radiation Docket and Information Center, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460; and the National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA approved regulations.*

STATE OF NORTH DAKOTA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–01 General Provisions				
33–15–01–01	Purpose	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–02	Scope	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–03	Authority	9/1/97	4/2/04, 69 FR 17302.	
33–15–01–04	Definitions	3/1/03	10/21/04, 69 FR 61762.	
33–15–01–5	Abbreviations	10/1/87	5/12/89, 54 FR 20574.	
	Except the following abbreviations: CFR, PM_{10}, scmh, TSP, & ohm.	1/1/89	8/9/90, 55 FR 32403.	
33–15–01–06	Entry onto premises—Authority	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–07	Variances: Subsection 1 and Subsection 2	10/1/87	5/12/89, 54 FR 20574.	
		6/1/90	6/26/92, 57 FR 28619.	
33–15–01–08	Circumvention	6/1/90	6/26/92, 57 FR 28619.	
33–15–01–09	Severability	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–10	Land use plans and zoning regulations	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–11	Reserved	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–12	Measurements of emissions of air contaminants.	6/1/01	2/28/03, 68 FR 9565.	
33–15–01–13	Shutdown and malfunction of an installation—Requirements for notification.	10/1/87	5/12/89, 54 FR 20574	Excluding subsection 2(b) which was subsequently revised and approved. See below.
33–15–01–13.2(b)	Malfunctions	9/1/97	8/27/98, 63 FR 45722.	
33–15–01–14	Time schedule for compliance	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–15	Prohibition of air pollution	6/1/01	2/28/03, 68 FR 9565.	
33–15–01–16	Confidentiality of records	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–17	Enforcement	3/1/03	10/21/04, 69 FR 61762.	
33–15–01–18	Compliance certifications	3/1/03	10/21/04, 69 FR 61762.	
33–15–02 Ambient Air Quality Standards				
33–15–02–01	Scope	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–02	Purpose	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–03	Air quality guidelines	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–04	Ambient air quality standards	9/1/98	8/31/99, 64 FR 47395	See additional interpretive materials cited in 64 FR 47395, 8/31/99.
33–15–02–05	Method of sampling and analysis	12/1/94	10/8/96, 61 FR 52865.	
33–15–02–06	Reference conditions	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–07	Concentration of air contaminants in the ambient air restricted.	10/1/87	5/12/89, 54 FR 20574	Excluding subsection 3 and 4 which were subsequently revised and approved. See below.
33–15–02, Table 1	Ambient Air Quality Standards	12/1/94	10/8/96, 61 FR 52865.	

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–02–07.3, 33–15–02–07.4 and 33–15–02, Table 2.	Concentration of air contaminants in the ambient air restricted and National Ambient Air Quality Standards table.	9/1/98	8/31/99, 64 FR 47395	See additional interpretive materials cited in 64 FR 47395, 8/31/99.
	33–15–03 Restrictions of Visible Air Contaminants			
33–15–03–01	Restrictions applicable to existing installations	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–02	Restrictions applicable to new installations and all incinerators.	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–03	Restrictions applicable to fugitive emissions ...	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–03.1	Restrictions applicable to flares	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–04	Exceptions	2/1/82	11/12/82, 47 FR 51131.	
33–15–03–05	Method of measurement	10/1/87	5/12/89, 54 FR 20574.	
	33–15–04 Open Burning Restrictions			
33–15–04–01	Refuse burning restrictions	1/1/96	4/21/97, 62 FR 19224.	
33–15–04–02	Permissible open burning	1/1/96	4/21/97, 62 FR 19224.	
	33–15–05 Emissions of Particulate Matter Restricted			
33–15–05–01	Restrictions of emissions of particulate matter from industrial processes.	10/1/87	5/12/89, 54 FR 20574.	
33–15–05–02	Maximum allowable emissions of particulate matter from fuel burning equipment used for indirect heating.	3/1/03	10/21/04, 69 FR 61762.	
33–15–05–03	Incinerators (repealed)	8/1/95	4/21/97, 62 FR 19224.	
33–15–05–03.1	Infectious waste incinerators (repealed)	7/12/00	2/28/03, 68 FR 9565.	
33–15–05–03.2	Refuse incinerators	8/1/95	4/21/97, 62 FR 19224.	
33–15–05–03.3	Other waste incinerators	3/1/03	10/21/04, 69 FR 61762.	
33–15–05–04	Methods of measurement	3/1/03	10/21/04, 69 FR 61762.	
	33–15–06 Emissions of Sulfur Compounds Restricted			
33–15–06–01	Restrictions of emissions of sulfur dioxide from use of fuel.	3/1/03	10/21/04, 69 FR 61762	See additional interpretive materials cited in 63 FR 45722, 8/27/98.
33–15–06–02	Restrictions of emissions of sulfur oxides from industrial processes.	6/1/92	10/20/93, 58 FR 54041.	
33–15–06–03	Methods of measurement	3/1/03	10/21/04, 69 FR 61762.	
33–15–06–04	Continuous emission monitoring requirements	6/1/92	10/20/93, 58 FR 54041.	
33–15–06–05	Reporting and recordkeeping requirements	6/1/92	10/20/93, 58 FR 54041.	
	33–15–07 Control of Organic Compounds Emissions			
33–15–07–01	Requirements for construction of organic compounds facilities.	6/1/92	8/21/95, 60 FR 43396	Excluding subsection 1 which was subsequently revised and approved. See below.
33–15–07–01.1	Scope	9/1/98	8/31/99, 64 FR 47395.	
33–15–07–02	Requirements for organic compounds gas disposal.	6/1/92	8/21/95, 60 FR 43396.	
	33–15–08 Control of Air Pollution From Vehicles and Other Internal Combustion Engines			
33–15–08–01	Internal combustion engine emissions restricted.	7/1/78	11/2/79, 44 FR 63102.	
33–15–08–02	Removal or disabling of motor vehicle pollution control devices prohibited.	7/1/78	11/2/79, 44 FR 63102.	
	33–15–10 Control of Pesticides			
33–15–10–01	Pesticide use restricted Subsection 1 and Subsection 2.	10/1/87 1/1/89	5/12/89, 54 FR 20574. 8/9/90, 55 FR 32403.	
33–15–10–02	Restrictions on the disposal of surplus pesticides and empty pesticide containers.	10/1/87	5/12/89, 54 FR 20574	Excluding subsections 2, 3, 4, and 5 which were subsequently revised and approved. See below.

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–10–02.2, 33–15–10–02.3, 33–15–10–02.4.	Restrictions on the disposal of surplus pesticides and empty pesticide containers.	1/1/89	8/9/90, 55 FR 32403.	
33–15–10–02.5	Restrictions on the disposal of surplus pesticides and empty pesticide containers.	6/1/90	6/26/92, 57 FR 28619.	
33–15–11 Prevention of Air Pollution Emergency Episodes				
33–15–11–01	Air pollution emergency	10/1/87	5/12/89, 54 FR 20574.	
33–15–11–02	Air pollution episode criteria	10/1/87	5/12/89, 54 FR 20574.	
33–15–11–03	Abatement strategies emission reduction plans.	10/1/87	5/12/89, 54 FR 20574.	
33–15–11–04	Preplanned abatement strategies plans	10/1/87	5/12/89, 54 FR 20574.	
33–15–11–Table 6	Air pollution episode criteria	8/1/95	4/21/97, 62 FR 19224.	
33–15–11–Table 7	Abatement strategies emission reduction plans.	8/1/95	4/21/97, 62 FR 19224.	
33–15–14 Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate				
33–15–14–01	Designated air contaminant sources	8/1/95	4/21/97, 62 FR 19224.	
33–15–14–01.1	Definitions	1/1/96	4/21/97, 62 FR 19224.	
33–15–14–02	Permit to construct	3/1/94	8/21/95, 60 FR 43396	Excluding subsections 12, 3.c, 13.b.1, 5, 13.c, 13.i(5), and 19 (one sentence) which were subsequently revised and approved. See below. See additional interpretive materials cited in 57 FR 28619, 6/26/92, regarding the State's commitment to meet the requirements of EPA's "Guideline on Air Quality Models (Revised)."
33–15–14–02.12	[Reserved]	8/1/95 & 1/1/96	4/21/97, 62 FR 19224	Moved this section related to fees for Permit to Construct to a new chapter, 33–15–23, Fees.
33–15–14–02.3.c	Alterations to a source	9/1/98	8/31/99, 64 FR 47395	See additional interpretive materials cited in 64 FR 47395, 8/31/99.
33–15–14–02.13.b.1 ...	Exemptions	6/1/01	2/28/03, 68 FR 9565.	
33–15–14–02.5, 33–15–14–02.13.c and 33–15–14–02.13.i(5).	Review of application—standard for granting permits to construct and exemptions.	3/1/03	8/8/05, 70 FR 45539.	
33–15–14–02.19 (one sentence—see explanation).	Amendment of permits	3/1/03	1/24/06, 71 FR 3764	Only one sentence was revised and approved with this action. That sentence reads: "In the event that the modification would be a major modification as defined in Chapter 33–15–15, the department shall follow the procedures established in Chapter 33–15–15." The remainder of subsection 19 was approved on 8/21/95 (60 FR 43396). See above.
33–15–14–03	Minor source permit to operate	3/1/94	8/21/95, 60 FR 43396	Excluding subsections 10, 1.c, 4, 5.a(1)(d), 11, and 16 (one sentence) which were subsequently revised and approved. See below. Also see 40 CFR 52.1834.

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–14–03.10	[Reserved]	8/1/95 & 1/1/96	4/21/97, 62 FR 19224	Moved this section related to fees for Permit to Operate to a new chapter, 33–15–23, Fees.
33–15–14–03.1.c	Permit to operate required	6/1/01	2/28/03, 68 FR 9565.	
33–15–14–03.4, 33–15–14–03.5.a(1)(d) & 33–15–14–03.11.	Performance testing, action on applications, and performance and emission testing.	3/1/03	8/8/05, 70 FR 45539.	
33–15–14–03.16 (One sentence—see explanation).	Amendment of permits	3/1/03	1/24/06, 71 FR 3764	Only one sentence was revised and approved with this action. That sentence reads: ''In the event that the modification would be a major modification as defined in Chapter 33–15–15, the department shall follow the procedures established in Chapter 33–15–15.'' The remainder of subsection 16 was approved on 8/21/95 (60 FR 43396). See above.
33–15–14–04	Permit fees (repealed)	3/1/94	8/21/95, 60 FR 43396.	
33–15–14–05	Common provisions applicable to both permit to construct and permit to operate (repealed).	3/1/94	8/21/95, 60 FR 43396.	
33–15–14–07	Source exclusion from title V permit to operate requirements.	6/1/01	2/28/03, 68 FR 9565.	
33–15–15 Prevention of Significant Deterioration of Air Quality				
33–15–15–01	General provisions	6/1/92	8/21/95, 60 FR 43396	Excluding subsections 1.a(3), 1.a(4), 1.c, 1.e(4), 1.h, 1.i, 1.m, 1.x(2)(h–k), 1.aa(2)(c), 1.bb, 1.dd, 1.ee, 1.ff, 4.d(3)(a), 4.j(4)(b), 1.hh, 2, 1.x.2(d), and 4.h(3) which were subsequently revised and approved. See below. See additional interpretive materials cited in 56 FR 12848, 3/28/91, regarding NO_X increments and in 57 FR 28619, 6/26/92, regarding the State's commitment to meet the requirements of EPA's ''Guideline on Air Quality Models (Revised).'' Also see 40 CFR 52.1829.
33–15–15–01. subsections: 1.a(3), 1.a(4), 1.c, 1.e(4), 1.h, 1.i, 1.m, 1.x(2)(h–k), 1.aa(2)(c), 1.bb, 1.dd, 1.ee, & 1.ff, 4.d(3)(a), & 4.j(4)(b).	Definitions & review of new major stationary sources and major modifications.	3/1/94	11/3/95, 60 FR 55792.	
33–15–15–01.1.hh & 33–15–15–01.2.	Definitions & significant deterioration of air quality—area designation and deterioration increment.	6/1/01	2/28/03, 68 FR 9565.	
33–15–15–01.1.x.2(d) & 33–15–15–01.4.h(3).	Definitions & review of new major stationary sources and major modifications.	3/1/03	8/8/05, 70 FR 45539.	
33–15–15–02	Reclassification	1/1/89	8/9/90, 55 FR 32403.	

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–17 Restriction of Fugitive Emissions				
33–15–17–01	General provisions—applicability and designation of affected facilities.	6/1/01	2/28/03, 68 FR 9565.	
33–15–17–02	Restriction of fugitive particulate emissions	1/1/96	4/21/97, 62 FR 19224.	
33–15–17–03	Reasonable precautions for abating and preventing fugitive particulate emissions.	6/20/78	11/2/79, 44 FR 63102.	
33–15–17–04	Restriction of fugitive gaseous emissions	6/20/78	11/2/79, 44 FR 63102.	
33–15–18 Stack Heights				
33–15–18–01	General provisions	10/1/87	11/14/88, 53 FR 45763.	
33–15–18–02	Good engineering practice demonstrations	10/1/87	11/14/88, 53 FR 45763.	
33–15–18–03	Exemptions	10/1/87	11/14/88, 53 FR 45763.	
33–15–19 Visibility Protection				
33–15–19–01	General provisions	10/1/87	9/28/88, 53 FR 37757.	
33–15–19–02	Review of new major stationary sources and major modifications.	10/1/87	9/28/88, 53 FR 37757.	
33–15–19–03	Visibility monitoring	10/1/87	9/28/88, 53 FR 37757.	
33–15–20 Control of Emissions From Oil and Gas Well Production Facilities				
33–15–20–01	General provisions	6/1/92	8/21/95, 60 FR 43396.	
33–15–20–02	Registration and reporting requirements	6/1/92	8/21/95, 60 FR 43396.	
33–15–20–03	Prevention of significant deterioration applicability and source information requirements.	6/1/92	8/21/95, 60 FR 43396.	
33–15–20–04	Requirements for control of production facility emissions.	6/1/90	6/26/92, 57 FR 28619.	
33–15–23 Fees				
33–15–23–01	Definitions	8/1/95	4/21/97, 62 FR 19224.	
33–15–23–02	Permit to construct fees	8/1/95	4/21/97, 62 FR 19224.	
33–15–23–03	Minor source permit to operate fees	8/1/95	4/21/97, 62 FR 19224.	

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(d) EPA-approved source-specific requirements.

Name of source	Nature of requirement	State effective date	EPA approval date and citation [2]	Explanations
—Tesoro Mandan Refinery —Leland Olds Station Units 1 & 2 —Milton R. Young Unit 1 —Heskett Station Units 1 & 2 —Stanton Station Unit 1 —American Crystal Sugar at Drayton	SIP Chapter 8, Section 8.3, Continuous Emission Monitoring Requirements for Existing Stationary Sources, including amendments to Permits to Operate and Department Order.	5/6/77	10/17/77, 42 FR 55471.	

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) EPA-approved nonregulatory provisions.

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/adopted date	EPA approval date and citation [3]	Explanations
(1) Implementation Plan for the Control of Air Pollution for the State of North Dakota. Chapters: 1. Introduction 2. Legal Authority 3. Control Strategy 4. Compliance Schedule 5. Prevention of Air Pollution Emergency Episodes 7. Review of New Sources and Modifications 8. Source Surveillance 9. Resources 10. Inter-governmental Cooperation 11. Rules and Regulations With subsequent revisions to the chapters as follows:	Statewide	Submitted: 1/24/72 Adopted: 1/24/72 Clarification submitted: 6/14/73 2/19/74 6/26/74 11/21/74 4/23/75	5/31/72, 37 FR 10842 with all clarifications on 3/2/76, 41 FR 8956.	Excluding subsequent revisions, as follows: Chapters 6, 11, and 12 and Sections 2.11, 3.2.1, 3.7, 5.2.1, 6.10, 6.11, 6.13, 8.3. Revisions to these non-regulatory provisions have subsequently been approved. See below.
(2) Revisions to SIP Chapter 8, Section 8.3.	.....	Submitted: 5/26/77	10/17/77, 42 FR 55471.	
(3) Revisions to SIP Chapter 2, Section 2.11.	.....	Submitted: 1/17/80	8/12/80, 45 FR 53475.	
(4) SIP Chapter 6, Air Quality Surveillance.	.....	Submitted: 1/17/80	8/12/80, 45 FR 53475.	
(5) Revisions to SIP Chapter 6, Section 6.10.	.....	Submitted: 1/26/88	9/28/88, 53 FR 37757.	
(6) Revisions to SIP Chapter 3, Section 3.7.	.....	Submitted: 4/18/89	10/5/89, 54 FR 41094.	
(7) Revisions to SIP Chapter 3, Section 3.2.1.	.....	Submitted: 4/18/89	8/9/90, 55 FR 32403.	
(8) Revisions to SIP Chapter 5, Section 5.2.1.	.....	Submitted: 4/18/89	8/9/90, 55 FR 32403.	
(9) Revisions to SIP Chapter 6, Section 6.11.	.....	Submitted: 4/18/89	8/9/90, 55 FR 32403.	
(10) Revisions to SIP Chapter 6, Section 6.13.	.....	Submitted: 1/9/96	4/21/97, 62 FR 19224.	
(11) Revisions to Chapter 11, Rules & Regulations.	.....	.....	.....	See the table listed above under § 52.1820 (c)(1) for most current version of EPA-approved North Dakota regulations.
(12) SIP to meet Air Quality Monitoring 40 CFR part 58, subpart c, paragraph 58.20 and public notification required under section 127 of the Clean Air Act.	Statewide	Submitted: 1/17/80	8/12/80, 45 FR 53475.	
(13) Stack Height Demonstration Analysis.	Statewide	Submitted: 4/18/86 and 7/21/87.	6/7/89, 54 FR 24334.	
(14) Visibility New Source Review and Visibility Monitoring.	Statewide	Submitted: 1/26/88	9/28/88, 53 FR 37757.	
(15) Commitment to revise stack height rules in response to NRDC v. Thomas, 838 F.2d 1224 (DC Cir. 1988).	Statewide	Submitted: 5/11/88	11/14/88, 53 FR 45763.	See also 40 CFR 52.1832.
(16) Visibility General Plan and Long-term Strategy.	Statewide	Submitted: 4/18/89	10/5/89, 54 FR 41094.	See also 40 CFR 52.1831.
(17) Group III PM10 SIP	Statewide	Submitted: 4/18/89	8/9/90, 55 FR 32403.	See additional interpretive materials cited in 55 FR 32403, 8/9/90.
(18) Commitment to meet all requirements of EPA's Guideline on Air Quality Models (revised) for air quality modeling demonstrations associated with the permitting of new PSD sources, PSD major modifications, and sources to be located in non-attainment areas.	Statewide	Submitted: 2/14/92	6/26/92, 57 FR 28619.	See additional interpretive materials cited in 57 FR 28619, 6/26/92. Also see 40 CFR 52.1824.
(19) Small Business Assistance Program (SIP Chapter 12).	Statewide	Submitted: 11/2/92 and 1/18/93.	1/11/94, 59 FR 1485.	See additional interpretive materials cited in 59 FR 1485, 1/11/94.

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. E7–3314 Filed 2–28–07; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01; I.D. 022607B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft (18.3 m) LOA Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area 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 vessels less than 60 ft (18.3 meters (m)) length overall (LOA) using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the limit of Pacific cod for catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 26, 2007, through 2400 hrs, A.l.t., December 31, 2007.

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

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

In accordance with § 679.22(a)(7)(i)(C)(*1*) and (*2*), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that 113 metric tons of Pacific cod have been caught by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof exemption area described at § 679.22(a)(7)(i)(C)(*1*). Consequently, the Regional Administrator is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area.

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 vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 23, 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 section 679.22 and is exempt from review under Executive Order 12866.

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

Dated: February 26, 2007.

James P. Burgess,

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

[FR Doc. 07–933 Filed 2–26–07; 2:24 pm]
BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 40
Thursday, March 1, 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 25

[Docket No. NM371; Notice No. 25–07–07–SC]

Special Conditions: Dassault Aviation Model Falcon 7X Airplane; Sudden Engine Stoppage, Operation Without Normal Electrical Power, and Dive Speed Definition With Speed Protection System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Dassault Aviation Model Falcon 7X airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features include engine size and torque load, which affect sudden engine stoppage; electrical and electronic systems which perform critical functions, which affect operation without normal electrical power; and dive speed definition with speed protection system. These proposed special conditions pertain to their effects on the structural performance of the airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by March 21, 2007.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM371, 1601 Lind Avenue SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM371. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1503; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late, if it is possible to do so without incurring expense or delay. We may change the proposed special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On June 4, 2002, Dassault Aviation, 9 rond Point des Champs Elysees, 75008, Paris, France, applied for an FAA type certificate for its new Model Falcon 7X airplane. The Dassault Model Falcon 7X airplane is a 19 passenger transport category airplane powered by three aft mounted Pratt & Whitney PW307A high bypass ratio turbofan engines. Maximum takeoff weight will be 63,700 pounds, and maximum certified altitude will be 51,000 feet with a range of 5,700 nautical miles. The airplane is operated using a fly-by-wire (FBW) primary flight control system. This will be the first application of a FBW primary flight control system in a private/corporate use airplane.

The Dassault Aviation Model Falcon 7X design incorporates equipment that was not envisioned when part 25 was created. This equipment affects the sudden engine stoppage, operation without normal electrical power, and dive speed definition with speed protection system. Therefore, special conditions are required that provide the level of safety equivalent to that established by the regulations.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Dassault Aviation must show that the Model Falcon 7X airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–108.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model Falcon 7X airplane because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Dassault Model Falcon 7X airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that

incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Dassault Aviation Model Falcon 7X airplane will incorporate the following novel or unusual design features:

- Sudden engine stoppage.
- Operation without normal electrical power.
- Dive speed definition with speed protection system.

Because of these rapid improvements in airplane technology, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions address equipment which may affect the airplane's structural performance, either directly or as a result of failure or malfunction. These proposed special conditions are identical or nearly identical to those previously required for type certification of other airplane models. Additional special conditions will be issued for other novel or unusual design features of the Dassault Model Falcon 7X airplane. Those additional special conditions will pertain to the following topics:

- Side stick controllers;
- Electronic flight control system: lateral-directional and longitudinal stability, low energy awareness.
- Electronic flight control system: flight control surface position awareness, and
- Electronic flight control system: flight characteristics compliance via the handling qualities rating method (HQRM);
- Flight envelope protection: general limiting requirements,
- Flight envelope protection: high incidence protection function,
- Flight envelope protection: normal load factor (g) limiting,
- Flight envelope protection: pitch, roll, and high speed limiting functions.

Final special conditions have been issued for the Model Falcon 7X with the novel or unusual design feature pertaining to Pilot Compartment View-Hydrophobic Coatings in Lieu of Windshield Wipers (January 10, 2007; 72 FR 1135). Special conditions have been proposed for the Model Falcon 7X with the novel or unusual design features pertaining to Interaction of Systems and Structures, Limit Pilot Forces, and High Intensity Radiated Fields (HIRF) (October 18, 2006; 71 FR 61427).

Discussion

Because of these rapid improvements in airplane technology, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. Therefore, in addition to the requirements of part 25, subparts C and D, the following special conditions apply.

Proposed Special Conditions for Sudden Engine Stoppage

The Dassault Model Falcon 7X will have high-bypass ratio turbofan engines. Engines of this size were not envisioned when § 25.361, pertaining to loads imposed by engine seizure, was adopted in 1965. Worst case engine seizure events become increasingly more severe with increasing engine size because of the higher inertia of the rotating components.

Section 25.361(b)(1) requires that for turbine engine installations, the engine mounts and the supporting structures must be designed to withstand a ''limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure.'' Limit loads are expected to occur about once in the lifetime of any airplane. Section 25.305 requires that supporting structures be able to support limit loads without detrimental permanent deformation, meaning that supporting structures should remain serviceable after a limit load event.

Since adoption of § 25.361(b)(1), the size, configuration, and failure modes of jet engines have changed considerably. Current engines are much larger and are designed with large bypass fans. In the event of a structural failure, these engines are capable of producing much higher transient loads on the engine mounts and supporting structures.

As a result, modern high bypass engines are subject to certain rare-but-severe engine seizure events. Service history shows that such events occur far less frequently than limit load events. Although it is important for the airplane to be able to support such rare loads safely without failure, it is unrealistic to expect that no permanent deformation will occur.

Given this situation, Aviation Rulemaking Advisory Committee (ARAC) has proposed a design standard for today's large engines. For the commonly-occurring deceleration events, the proposed standard would require engine mounts and structures to support maximum torques without detrimental permanent deformation. For the rare-but-severe engine seizure events such as loss of any fan, compressor, or turbine blade, the proposed standard would require engine mounts and structures to support maximum torques without failure, but allows for some deformation in the structure.

The FAA concludes that modern large engines, including those on the Model Falcon 7X, are novel and unusual compared to those envisioned when § 25.361(b)(1) was adopted and thus warrant a special condition. The proposed special condition contains design criteria recommended by ARAC. The ARAC proposal would revise the wording of § 25.361(b), including §§ 25.361(b)(1) and (b)(2), removing language pertaining to structural failures and moving it to a separate requirement that discusses the reduced factors of safety that apply to these failures.

Proposed Special Conditions for Operation Without Normal Electrical Power

The Dassault Aviation Model Falcon 7X airplane will have electrical and electronic systems which perform critical functions. The Model Falcon 7X airplane is a fly-by-wire control system that requires a continuous source of electrical power for the flight control system to remain operable, since the loss of all electrical power may be catastrophic to the airplane. The airworthiness standards of part 25 do not contain adequate or appropriate standards for the protection of the Electronic Flight Control System from the adverse effects of operations without normal electrical power.

Section 25.1351(d), ''Operation without normal electrical power,'' requires safe operation in visual flight rule (VFR) conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control surfaces and the pilot controls. Such traditional designs enable the flightcrew to maintain control of the airplane, while providing time to sort out the electrical failure, re-start the engines if necessary, and re-establish some of the electrical power generation capability.

The Dassault Aviation Model Falcon 7X airplane, however, will utilize an Electronic Flight Control System for the pitch and yaw control (elevator, stabilizer, and rudder). There is no mechanical linkage between the pilot controls and these flight control surfaces. Pilot control inputs are converted to electrical signals, which are processed and then transmitted via wires to the control surface actuators. At the control surface actuators, the electrical signals are converted to an actuator command, which moves the control surface.

To maintain the same level of safety as that associated with traditional designs, the Dassault Model 7X airplanes with electronic flight controls must not be time limited in its operation, including being without the normal source of electrical power generated by the engine or the Auxiliary Power Unit (APU) generated electrical power.

Service experience has shown that the loss of all electrical power generated by the airplane's engine generators or APU is not extremely improbable. Thus, it must be demonstrated that the airplane can continue safe flight and landing—including steering and braking on ground for airplanes using steer/brake-by-wire—after total loss of normal electrical power with the use of its emergency electrical power systems. These emergency electrical power systems must be able to power loads that are essential for continued safe flight and landing.

Proposed Special Conditions for Dive Speed Definition With Speed Protection System

Dassault Aviation proposes to reduce the speed margin between V_C and V_D required by § 25.335(b), based on the incorporation of a high speed protection system in the Model Falcon 7X flight control laws. The Falcon 7X is equipped with a high speed protection system which limits nose down pilot authority at speeds above V_C /M_C and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1).

Section 25.335(b)(1) is an analytical envelope condition which was originally adopted in Part 4b of the Civil Air Regulations to provide an acceptable speed margin between design cruise speed and design dive speed. Freedom from flutter and airframe design loads is affected by the design dive speed. While the initial condition for the upset specified in the rule is 1g level flight, protection is afforded for other inadvertent overspeed conditions as well. Section 25.335(b)(1) is intended as a conservative enveloping condition for all potential overspeed conditions, including non-symmetric ones.

To establish that all potential overspeed conditions are enveloped, the applicant would demonstrate that the dive speed will not be exceeded during pilot-induced or gust-induced upsets in non-symmetric attitudes.

In addition, the high speed protection system in the Falcon 7X must have a high level of reliability.

Applicability

As discussed above, these special conditions are applicable to the Dassault Aviation Model Falcon 7X airplane. Should Dassault Aviation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features of the Dassault Aviation Model Falcon 7X airplane. It is not a rule of general applicability, and it affects only the applicant which applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Dassault Aviation Model Falcon 7X airplane.

1. Sudden Engine Stoppage

In lieu of the requirements of § 25.361(b) the following special condition applies:

(a) *For turbine engine installations,* the engine mounts, pylons and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden engine deceleration due to a malfunction which could result in a temporary loss of power or thrust; and

(2) The maximum acceleration of the engine.

(b) *For auxiliary power unit installations,* the power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden auxiliary power unit deceleration due to malfunction or structural failure; and

(2) The maximum acceleration of the power unit.

(c) *For engine supporting structures,* an ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from:

(1) The loss of any fan, compressor, or turbine blade; and separately

(2) where applicable to a specific engine design, any other engine structural failure that results in higher loads.

(d) The ultimate loads developed from the conditions specified in paragraphs (c)(1) and (2) above are to be multiplied by a factor of 1.0 when applied to engine mounts and pylons and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure. In addition, the airplane must be capable of continued safe flight considering the aerodynamic effects on controllability due to any permanent deformation that results from the conditions specified in paragraph (c), above.

2. Operation Without Normal Electrical Power

In lieu of the requirements of 14 CFR 25.1351(d), the following special condition applies:

It must be demonstrated by test or combination of test and analysis that the airplane can continue safe flight and landing with inoperative normal engine and APU generator electrical power (i.e., electrical power sources, excluding the battery and any other standby electrical sources). The airplane operation should be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for the maximum diversion time capability being certified.

3. Dive Speed Definition With Speed Protection System

In lieu of the requirements of § 25.335(b)(1)—if the flight control system includes functions which act automatically to initiate recovery before the end of the 20 second period specified in § 25.335(b)(1)—the following special condition applies.

The greater of the speeds resulting from the conditions of paragraphs (a) and (b), below, must be used.

(a) From an initial condition of stabilized flight at V_C/M_C, the airplane is upset so as to take up a new flight path 7.5 degrees below the initial path. Control application, up to full authority, is made to try and maintain this new flight path. Twenty seconds after initiating the upset, manual recovery is made at a load factor of 1.5 g (0.5 acceleration increment) or such greater load factor that is automatically applied by the system with the pilot's pitch control neutral. The speed increase occurring in this maneuver may be

calculated, if reliable or conservative aerodynamic data is used. Power, as specified in § 25.175(b)(1)(iv), is assumed until recovery is made, at which time power reduction and the use of pilot controlled drag devices may be used.

(b) From a speed below V_C/M_C with power to maintain stabilized level flight at this speed, the airplane is upset so as to accelerate through V_C/M_C at a flight path 15 degrees below the initial path—or at the steepest nose down attitude that the system will permit with full control authority if less than 15 degrees.

Note: The pilot's controls may be in the neutral position after reaching V_C/M_C and before recovery is initiated.

(c) Recovery may be initiated three seconds after operation of high speed warning system by application of a load of 1.5g (0.5 acceleration increment) or such greater load factor that is automatically applied by the system with the pilot's pitch control neutral. Power may be reduced simultaneously. All other means of decelerating the airplane, the use of which is authorized up to the highest speed reached in the maneuver, may be used. The interval between successive pilot actions must not be less than one second.

(d) The applicant must also demonstrate that the design dive speed, established above, will not be exceeded during pilot-induced or gust-induced upsets in non-symmetric attitudes.

(e) The occurrence of any failure condition that would reduce the capability of the overspeed protection system must be improbable (less than 10^{-5} per flight hour).

Issued in Renton, Washington, on February 23, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–3582 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23072; Directorate Identifier 2005–NE–38–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Turbofan Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Pratt & Whitney (PW) JT9D–7R4 turbofan engines. That AD currently requires inspection of the blade root thickness of 1st stage fan blades identified by part number (P/N) and serial number (SN) in the AD. This proposed AD would require the same actions but would correct 12 P/Ns, add 10 part SNs, and add the definition of next fan blade exposure to the compliance section. This proposed AD results from the discovery of inaccurate part quantity, part numbers, and serial numbers used in AD 2005–26–09. We are proposing this AD to prevent 1st stage fan blade fracture and uncontained engine failure, resulting in possible damage to the airplane.

DATES: We must receive any comments on this proposed AD by April 30, 2007.

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

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

FOR FURTHER INFORMATION CONTACT: Kevin Donovan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7743, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–23072; Directorate Identifier 2005–NE–38–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the 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 proposal, any comments received and any final disposition in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On December 16, 2005, the FAA issued AD 2005–26–09, Amendment 39–14430 (70 FR 76381, December 27, 2005). That AD requires inspection of the blade root thickness of 1st stage fan blades identified by P/N and SN. That AD was the result of a report of a repair station that created an unapproved repair on 1st stage fan blades. That condition, if not corrected, could result in 1st stage fan blade fracture and uncontained engine failure, resulting in possible damage to the airplane.

Actions Since AD 2005–26–09 Was Issued

Since AD 2005–26–09 was issued, we received comments on the AD requesting clarification. We considered those requests and have changed the compliance section in this proposed AD for clarification. We also found and corrected 12 incorrect P/Ns, and added 10 part SNs of affected 1st stage fan blades to Table 1 of this proposed AD. The comments and affected P/Ns and SNs are also discussed below.

Request To Clarify ''At the Next 1st Stage Fan Blade Exposure''

Two air carriers request that we clarify ''at the next 1st stage fan blade exposure,'' to prevent any in-service disruptions or delays. The commenter further states that the 1st stage fan blades can be exposed when:

- Some 1st stage fan blades are replaced due to in-service foreign object damage;
- A 1st stage fan hub is replaced and the same 1st stage fan blades are reused; and
- At shop visit when 1st stage fan blades are removed from the fan hub for cause or work scope.

We agree with adding a paragraph to the proposed AD which defines next 1st stage fan blade exposure. We have defined it as when any 1st stage fan blade is removed from the engine; or when the 1st stage fan hub is removed from the engine.

Suggestion To Report When Finding Affected 1st Stage Fan Blades

Air Canada suggests that operators finding any affected 1st stage fan blades should report back to the FAA. The commenter states that by requiring this reporting, all 520 of the blades can then be accounted for, and the FAA can close the AD. The commenter is also concerned that if some blades cannot be accounted for, such as blades already scrapped, misplaced, or shelved, then the AD will never be closed, and operators will be forced to verify the AD indefinitely at every 1st stage fan blade installation.

We do not agree. This proposed AD requires a onetime inspection for a specific population of 1st stage fan blades. If an operator has inspected and verified a certain set of 1st stage fan blades in accordance with the proposed AD, then at the next 1st stage fan blade exposure, only replacement blades that are listed in Table 1 of the proposed AD will require inspection and verification.

Request To Clarify or Remove Paragraph (e)

Air Canada states that compliance paragraph (e) mentions that the AD must be performed within the compliance times specified, but there are no times specified. The commenter requests this instruction be removed or clarified.

We partially agree. We revised the compliance times for clarification in the proposed AD.

Comment That ''At Exposure'' Limit Is Not a Practical Limit

ABX AIR claims that the ''at exposure'' limit in the AD is not practical. They said that ''at exposure'' will require the operators to set up a special inspection schedule to accomplish this onetime inspection which is not suitable for fleet operators.

We partially agree. Inspecting the affected parts at the next 1st stage fan blade exposure is sufficient. It is not necessary for operators to set up a special inspection schedule since this inspection does not impact the FAA-approved maintenance program procedures. However, for clarification, we added a definition for ''next first stage fan blade exposure'' to the proposed AD.

Request To Clarify ''Before Installing the 1st Stage Fan Blades''

ABX AIR requests that we clarify ''before installing the 1st stage fan blades'' in paragraph (f). ABX believes the AD should contain a concise clarifying statement such as: ''After the active date of this AD, no person may install, on any airplane, any blade listed in Table 1 of this AD unless the actions of this AD have already been accomplished.''

We agree. We added a prohibition statement that states that after the effective date of this (proposed) AD, do not install any 1st stage fan blades listed in Table 1 of this AD on any airplane, unless the actions of this AD have been done to the 1st stage fan blades.

P/Ns Corrected, and P/Ns and SNs Added

Since we issued AD 2005–26–09, we found and corrected 12 incorrect P/Ns, and added 10 part SNs of affected 1st stage fan blades in Table 1 of this proposed AD. The corrected numbers are as follows:

Incorrect P/Ns	Corrected P/Ns	SNs
5001341–023	5001341–022	JW2313
5001341–024	5001341–022	JW2498
5001341–025	5001341–022	JW2541
5001341–026	5001341–022	JW2560
5001341–027	5001341–022	JW2589
5001341–028	5001341–022	JW2639
5001341–029	5001341–022	JW2760
5001341–030	5001341–022	JW2792
5001341–031	5001341–022	MO579
5001341–032	5001341–022	MG2825
5001341–033	5001341–022	MG5477
5001341–034	5001341–022	ND5917

The added part SNs are as follows:

PNs	Added SNs
5001341–022	JW4713
5001341–022	MG6743
5001341–022	ND6924
831021–003	ND9177
831021–003	ND9496
831021–003	NS7894
831021–003	NS8559
831021–003	NS9072
804121	PX3805
804121	PX4266

Conclusion

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

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For that reason, we are proposing this AD, which would require:

- Checking the 1st stage fan blade for a circled, letter I, on the approved marking area of the outboard side of the blade platform. If the blade has this marking, no further action is required.
- Removing 1st stage fan blades without a circled, letter I, on the approved marking area of the outboard side of the blade platform if installed; and
- Inspecting the 1st stage fan blade root thickness; and
- Returning to service 1st stage fan blades that pass the inspection, after properly marking the blade.

Costs of Compliance

We estimate that this proposed AD would affect 531 1st stage fan blades installed on JT9D–7R4 turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about 0.5 work-hour per 1st stage fan blade to perform the proposed actions, and that the average labor rate is $80 per work-hour. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $21,240.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14430 (70 FR 76381, December 27, 2005), and by adding a new airworthiness directive to read as follows:

Pratt & Whitney: Docket No. FAA–2005–23072; Directorate Identifier 2005–NE–38–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by April 30, 2007.

Affected ADs

(b) This AD supersedes AD 2005–26–09.

Applicability

(c) This AD applies to Pratt & Whitney (PW) JT9D–7R4 turbofan engines. These engines are installed on, but not limited to, Airbus A300 and A310, and Boeing 747 and 767 airplanes.

Unsafe Condition

(d) This AD results from the discovery of inaccurate part quantity, part numbers, and serial numbers used in AD 2005–26–09. We are issuing this AD to prevent 1st stage fan blade fracture and uncontained engine failure, resulting in possible 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.

(f) For 1st stage fan blades that are listed by part number (P/N) and serial number (SN) in Table 1 of this AD, do the following:

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES

P/Ns	SNs
5001341–022	JW2804
5001341–022	JW0354
5001341–022	ND5746
5001341–022	ND5770
5001341–022	JW3992
5001341–022	ND8615
5001341–022	JW0442
5001341–022	JW2317
5001341–022	ND8631
5001341–022	ND8635
5001341–022	JW4624
5001341–022	NE0394
5001341–022	NE0153
5001341–022	NN8054
5001341–022	JW4693
5001341–022	ND7304
5001341–022	MG6108
5001341–022	MG5862
5001341–022	MG5619
5001341–022	NE0308
5001341–022	NE0200
5001341–022	MG6797
5001341–022	JW0230
5001341–022	ND5652
5001341–022	ND5775
5001341–022	JW0251
5001341–022	ND5719
5001341–022	JW0248
5001341–022	ND5785
5001341–022	ND5676
5001341–022	ND5661
5001341–022	JW0265
5001341–022	ND5699
5001341–022	ND5767
5001341–022	JW0259
5001341–022	ND5680
5001341–022	ND5749
5001341–022	JW0235
5001341–022	ND5776
5001341–022	ND8580
5001341–022	MG6039
5001341–022	ND9127
5001341–022	JW4287
5001341–022	JW0262
5001341–022	JW0445
5001341–022	JW4665
5001341–022	MG5901
5001341–022	NE0303
5001341–022	ND8703
5001341–022	JW4574
5001341–022	JW4286
5001341–022	JW4491
5001341–022	JW4630
5001341–022	JW4391
5001341–022	MG6550
5001341–022	MG6776
5001341–022	JW4586
5001341–022	JW0352
5001341–022	JW4261
5001341–022	MG6135
5001341–022	JW4685
5001341–022	MG6772
5001341–022	MG6793
5001341–022	MG7111
5001341–022	ND8618
5001341–022	JW0644
5001341–022	JW4631
5001341–022	JW4651
5001341–022	JW0234
5001341–022	JW4646
804121	NN9016
804121	VJ3393
804121	PX3694
804121	RK9168
804121	PX5023
804121	VJ3324
804121	VJ3504
804121	NN9115
804121	NN8936
804121	PX3816
804121	VJ3412
804121	RK9163
804121	VJ3447
804121	RK9230
804121	RK9109
804121	PX4627
804121	RK8990
804121	SP9459
804121	RK8656
804121	NN8933
804121	VJ3444
804121	ND5864
804121	NN9020
804121	RK8905
804121	SR1733
804121	NN9047
804121	PX3692
804121	PX3786
804121	NN9025
804121	NN9007
804121	RK9100
804121	VJ3399
804121	PX4970
804121	PX5013

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES—Continued

P/Ns	SNs
804121	RK8904
804121	NN8986
804121	NN8829
804121	VJ3459
804121	RK9143
804121	VJ3414
804121	NN9028
804121	SP1557
804121	PX5003
804121	PX5042
804121	VJ3475
804121	ND7330
804121	PX3714
831021–003	NS8913
831021–003	ND6512
831021–003	ND6941
831021–003	ND9576
831021–003	NS7555
831021–003	NS8286
831021–003	NS7447
831021–003	ND6488
831021–003	ND8296
831021–003	ND6956
831021–003	ND7879
831021–003	ND6509
831021–003	ND9814
831021–003	NN7331
831021–003	ND6991
831021–003	ND6894
831021–003	NS6413
831021–003	ND7344
831021–003	ND6947
831021–003	NN8732
831021–003	ND8536
831021–003	ND6946
831021–003	ND6723
831021–003	ND9294
831021–003	ND9290
831021–003	ND6013
831021–003	ND8937
831021–003	NS7160
831021–003	NS6435
831021–003	NS6591
831021–003	ND9558
831021–003	NS8479
831021–003	NS9382
831021–003	ND8965
831021–003	ND9837
831021–003	ND5959
831021–003	NS6491
831021–003	NS9072
831021–003	ND9625
831021–003	ND6714
831021–003	ND6820
831021–003	ND8972
831021–003	NE0286
831021–003	NE0347
831021–003	ND8010
831021–003	ND8956
831021–003	ND9535
831021–003	ND9831
831021–003	NE0227
831021–003	ND8283
831021–003	ND9730
831021–003	NN7656
831021–003	NS7775
831021–003	ND9815
831021–003	ND6135
831021–003	NS8491
831021–003	NS6395
831021–003	NS8584

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES—Continued

P/Ns	SNs
831021–003	NN7272
831021–003	MG7159
831021–003	NS6592
831021–003	ND7862
831021–003	ND6684
831021–003	NN7744
831021–003	ND7480
831021–003	ND7873
831021–003	ND6827
831021–003	ND6576
831021–003	ND9261
831021–003	NS8686
831021–003	ND9052
831021–003	ND6897
831021–003	ND6565
831021–003	NN8966
831021–003	PX3707
831021–003	NS7031
831021–003	ND6584
831021–003	ND9883
831021–003	NS6535
831021–003	ND7852
831021–003	ND9662
831021–003	ND7871
831021–003	JW0106
831021–003	ND8305
831021–003	NS6409
831021–003	NE0442
831021–003	ND9095
831021–003	ND9302
831021–003	ND9023
831021–003	ND8009
831021–003	ND8477
831021–003	ND7492
831021–003	ND8776
831021–003	ND6524
831021–003	ND6704
831021–003	ND8911
831021–003	ND8789
831021–003	ND8798
831021–003	ND6407
831021–003	ND7668
831021–003	ND9179
831021–003	NE0421
831021–003	ND6513
831021–003	ND6744
831021–003	ND7654
831021–003	ND7870
831021–003	ND9759
831021–003	ND6561
831021–003	ND5826
831021–003	ND6031
831021–003	ND8714
831021–003	ND8872
831021–003	ND6678
831021–003	ND6629
831021–003	ND8995
831021–003	NE0302
831021–003	ND6405
831021–003	NS8300
831021–003	NS8769
831021–003	NS7147
831021–003	ND6649
831021–003	ND7766
831021–003	NS7864
831021–003	NS8734
831021–003	ND6677
831021–003	NS7911
831021–003	ND8205
831021–003	ND8804
831021–003	ND6639

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES—Continued

P/Ns	SNs
831021–003	ND8994
831021–003	ND7275
831021–003	ND9195
831021–003	ND6178
831021–003	ND8639
831021–003	ND9760
831021–003	ND9108X
831021–003	ND6427
831021–003	ND6590
831021–003	NS6551
831021–003	JW1158
831021–003	ND6412
831021–003	ND7922
831021–003	NS8678
831021–003	ND8930
831021–003	ND6596
831021–003	ND9570
831021–003	NN9027
831021–003	ND6446
831021–003	NE0275
831021–003	ND9917
831021–003	NS7919
831021–003	NS7907
831021–003	ND6583
831021–003	NN7420
831021–003	ND7746
831021–003	ND8187
831021–003	NN8999
831021–003	ND6043
831021–003	ND7880
831021–003	NN7175
831021–003	ND9816
831021–003	ND8174
831021–003	ND6045
831021–003	NS7562
831021–003	JW0075
831021–003	ND6848
831021–003	ND8531
831021–003	ND6311
831021–003	ND8144
831021–003	ND5798
831021–003	ND8113
831021–003	ND9642
831021–003	ND7436
831021–003	ND9054
831021–003	ND9683
831021–003	ND5991
831021–003	ND6026
831021–003	ND6616
831021–003	ND6530
831021–003	NE0374
831021–003	ND6364
831021–003	ND7718
831021–003	ND6473
831021–003	ND6436
831021–003	ND6887
831021–003	ND6518
831021–003	ND6479
831021–003	NS6330
831021–003	ND7264
831021–003	ND8151
831021–003	ND6562
831021–003	NS8776
831021–003	ND6519
831021–003	ND7659
831021–003	NS9049
831021–003	NS6861
831021–003	ND9571
831021–003	ND9346
831021–003	ND6501
831021–003	NS8505

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES—Continued

P/Ns	SNs
831021–003	ND9338
831021–003	ND9775
831021–003	ND6485
831021–003	ND7165
831021–003	ND9371
831021–003	ND9537
831021–003	NS7889
831021–003	ND7877
831021–003	ND8670
831021–003	ND9032
831021–003	ND8781
831021–003	ND8604
831021–003	ND9329
831021–003	ND9110
831021–003	ND5997
831021–003	ND6027
831021–003	ND9589
831021–003	ND6575
831021–003	ND6592
831021–003	ND6463
831021–003	NS8583
831021–003	NS8590
831021–003	NS8567
831021–003	NS6795
831021–003	NS7110
831021–003	NS6587
831021–003	NS6404
831021–003	ND6486
5001341–022	JW0942
5001341–022	ND9231
5001341–022	JW4812
5001341–022	ND6555
5001341–022	M1375
5001341–022	MG6627
5001341–022	MG6794
5001341–022	ND9399
5001341–022	NE0084
5001341–022	MG6252
5001341–022	ND7422
5001341–022	ND7043
5001341–022	MG5722
5001341–022	MG5918
5001341–022	ND6984
5001341–022	M0839
5001341–022	M0922
5001341–022	M0938
5001341–022	M1117
5001341–022	M0307
5001341–022	JW3871
5001341–022	M1125
5001341–022	M1149
5001341–022	JW2681
5001341–022	M0270
5001341–022	M1120
5001341–022	M0205
5001341–022	AE9352
5001341–022	JW3492
5001341–022	ND6148
5001341–022	ND8907
5001341–022	M1235
5001341–022	MG5585
5001341–022	ND8436
5001341–022	MG5696
5001341–022	ND8704
5001341–022	JW2284
5001341–022	JW2313
5001341–022	JW2498
5001341–022	JW2541
5001341–022	JW2560
5001341–022	JW2589
5001341–022	JW2639

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES—Continued

P/Ns	SNs
5001341–022	JW2760
5001341–022	JW2792
5001341–022	M0579
5001341–022	MG2825
5001341–022	MG5477
5001341–022	ND5917
5001341–022	JW1976
5001341–022	JW2653
5001341–022	JW2608
5001341–022	JW2727
5001341–022	JW2764
5001341–022	JW2265
5001341–022	JW2474
5001341–022	JW2396
5001341–022	JW3554
5001341–022	JW2667
5001341–022	MG2302
5001341–022	MG3972
5001341–022	JW3930
5001341–022	ND6749
5001341–022	M1172
5001341–022	JW2104
5001341–022	JW2519
5001341–022	JW2640
5001341–022	JW2517
5001341–022	JW2663
5001341–022	JW2823
5001341–022	M0536
5001341–022	JW2725
5001341–022	MG5917
5001341–022	JW0681
5001341–022	JW0711
5001341–022	JW0740
5001341–022	JW0807
5001341–022	JW1089
5001341–022	JW1362
5001341–022	JW2065
5001341–022	MG2434
5001341–022	MG2846
5001341–022	JW0806
804121	NN9854
804121	NN9024
804121	NN9032
804121	PX5029
804121	NN9050
804121	NS8242
804121	NS8260
804121	PX4273
804121	PX4378
804121	RL0857
804121	RX8763
804121	NS8331
804121	NN9824
804121	MG6979
804121	MG7023
804121	MG7055
804121	RK8914
804121	RL0023
804121	PX4328
804121	RK9008
804121	TG1506
804121	KK8226
804121	MG2604
804121	NS6691
804121	RK8968
804121	NN9917
804121	RK7824
804121	M1343
804121	NS6559
804121	NS7767
804121	NE0363

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES—Continued

P/Ns	SNs
804121	PX3771
804121	NN9972
804121	RL0460
804121	RK8310
804121	SR2115
804121	TG2826
804121	PX5018
804121	PX5002
831021–003	ND7627
831021–003	ND6890
831021–003	ND7461
831021–003	ND9616
831021–003	NE0413
831021–003	NS8825
831021–003	NS6350
831021–003	NS7168
831021–003	NS7705
831021–003	NS7848
831021–003	ND9128
831021–003	ND9541
831021–003	ND9671
831021–003	ND9684
831021–003	NE0277
831021–003	NE0384
831021–003	NE0396
831021–003	ND6421
831021–003	ND6599
831021–003	ND6614
831021–003	ND7847
831021–003	ND8346
831021–003	ND8853
831021–003	ND8915
831021–003	NS8719
831021–003	NS8838
831021–003	NT0169
831021–003	NS9584
831021–003	ND6445
831021–003	ND6834
831021–003	ND7467
831021–003	ND8887
831021–003	ND6520
831021–003	NS8611
831021–003	NS7640
831021–003	NN7037
831021–003	NN7590
831021–003	NN8120
831021–003	NN8573
831021–003	NN9719
831021–003	NS8784
831021–003	TB6B367
831021–003	NN9557
831021–003	NN9710
831021–003	NS8374
831021–003	NS8770
831021–003	NS9022
831021–003	NS8416
831021–003	NS6474
831021–003	ND8912
831021–003	NT0108
831021–003	NS8836
831021–003	NN8310
831021–003	NS8559
5001341–022	JW4713
5001341–022	MG6743
5001341–022	ND6924
831021–003	ND9177
831021–003	ND9496
831021–003	NS7894
831021–003	NS8559
831021–003	NS9072
804121	PX3805

TABLE 1.—AFFECTED 1ST STAGE FAN BLADES—Continued

P/Ns	SNs
804121	PX4266

For Engines Installed on an Airplane

(1) For engines installed on an airplane with affected 1st stage fan blades installed, perform the actions in paragraphs (f)(3) through (f)(6)(ii) of this AD at the next 1st stage fan blade exposure.

For Engines Not Installed on an Airplane, or, for Affected 1st Stage Fan Blades Not Installed in an Engine

(2) For engines not installed on an airplane with affected 1st stage fan blades installed, or, for affected 1st stage fan blades not installed in an engine, paragraph (h) of this AD applies.

1st Stage Fan Blade Check

(3) Check the 1st stage fan blade for a circled, letter I, on the approved marking area of the outboard side of the blade platform. If the blade has this marking, no further action is required.

(4) Remove 1st stage fan blades without a circled, letter I, on the approved marking area of the outboard side of the blade platform, if installed.

(5) Inspect the 1st stage fan blade root thickness. You can find information on inspecting the blade root thickness in PW Engine Manual Section 72–31–02, Inspect-01, and Repair-23.

(6) For 1st stage fan blades that pass the inspection referenced in paragraph (f)(5) of this AD:

(i) Vibropeen the letter I and a circle around that letter, on the approved marking area of the outboard side of the blade platform. You can find information on approved blade marking in the JT9D–7R4 Engine Manual, Section 72–31–02, Typical Repair–13, Mark Repair Codes.

(ii) Return the 1st stage fan blades to service.

Definition

(g) For the purposes of paragraph (f)(1) of this AD, next 1st stage fan blade exposure is:

(1) When any 1st stage fan blade is removed from the engine; or

(2) When the 1st stage fan hub is removed from the engine.

Prohibited Installation

(h) After the effective date of this AD, do not install any 1st stage fan blades listed in Table 1 of this AD on any airplane, unless the actions of this AD have been done to the 1st stage fan blades.

Alternative Methods of Compliance

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

Related Information

(j) None.

Issued in Burlington, Massachusetts, on February 23, 2007.

Peter A. White,

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

[FR Doc. E7–3561 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter I

[Docket No. RM07–08–000]

Preliminary Permits for Wave, Current, and Instream New Technology Hydropower Projects

February 15, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Inquiry (NOI) and Interim Statement of Policy.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is inviting comments on its procedures with respect to the treatment of preliminary permits under Part I of the Federal Power Act for wave, current, and instream new technology hydropower projects.

DATES: Comments on this NOI are due on April 30, 2007.

ADDRESSES: You may submit comments identified by Docket No. RM07–8–000, by one of the following methods:

- *Agency Web Site*: *http://ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.
- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

William Guey-Lee, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6064.

Merrill Hathaway, (Legal Information), Office of General Counsel—Energy Projects, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8825.

SUPPLEMENTARY INFORMATION:

Introduction

1. The Federal Energy Regulatory Commission (Commission) is issuing this Notice of Inquiry to seek comments on how it should treat applications for preliminary permits to study hydropower projects involving proposals to utilize wave, current, and instream new technology methods to develop hydropower.[1] The Commission is also seeking comments on how it should oversee any such permits during their terms. Finally, the Commission also sets an interim policy pending the outcome of this proceeding.

2. The Commission has seen increasing interest in new hydroelectric technologies that would utilize ocean waves, tides, and currents from free-flowing rivers, as evidenced by a surge in applications for preliminary permits to study such projects. Commission staff has issued 11 preliminary permits for projects of this type; three are for proposed tidal energy projects (in New York, Washington, and California), and eight are for proposed ocean current energy projects (off the coast of Florida). Over 40 preliminary permit applications for ocean projects are currently pending before the Commission, all of which have been filed since March 2006.

3. These new technologies have significant potential: it has been estimated that the potential for wave and current power could be over 350-terawatt hours per year, which would more than double current hydropower production.[2] The Commission anticipates further exploration of how these technologies can fit within the national energy infrastructure in terms of the amount of potential energy that can be developed, its reliability, environmental and safety implications, and its commercial viability. The Commission wants to reduce regulatory barriers to the development of new technologies, where possible, and has exhibited the maximum flexibility permitted by law in regulating these projects.[3]

[1] There are a variety of technologies in various stages of development to produce electric power using ocean currents, tides, and wave action, rather than the traditional hydropower model involving hydraulic head developed by use of a dam or other diversion structure. For purposes of this notice of inquiry, the Commission refers to these newer forms of technology as ''wave, current, and instream new technology'' or simply ''new technology.'' However, the Commission is using the terms as shorthand, and is not attempting to define or limit the scope of these technologies.

[2] *See* Hydroelectric Infrastructure Technical Conference, Docket No. AD06–13–000 (December 6, 2006), transcript at 12; 22 (testimony of George Hagerman).

[3] For example, in *Verdant, Power, LLC,* 111 FERC ¶61,024, *on reh'g,* 112 FERC ¶61,143 (2005), the

Continued

Background

4. Under Part I of the Federal Power Act (FPA),[4] the Commission regulates non-federal hydropower projects that are: located on navigable waters; located on nonnavigable waters over which Congress has Commerce Clause jurisdiction, were constructed after 1935, and affect the interests of interstate or foreign commerce; located on public lands or reservations of the United States; or use surplus water or water power from a federal dam. The Commission has construed the term ''navigable water'' to include waters off the U.S. coast.[5]

5. Section 4(f) of the FPA[6] authorizes the Commission to issue preliminary permits for the purpose of enabling prospective applicants for a hydropower license to secure the data and perform the acts required by FPA section 9,[7] which in turn sets forth the material that must accompany an application for license. FPA section 5[8] states:

> Each preliminary permit issued under this part shall be for the sole purpose of maintaining priority of application for a license under the terms of this Act for such period or periods, not exceeding a total of three years, as in the discretion of the Commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each permit shall set forth the conditions under which priority shall be maintained. Such permits shall not be transferable, and may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing.[9]

Thus, the purpose of a preliminary permit is to preserve the right of the permit holder to have the first priority in applying for a license for the project that is being studied.[10] Because a permit is issued only to allow the permit holder to investigate the feasibility of a project, and grants no land-disturbing or other property rights,[11] the Commission historically has generally liberally granted such permits without requiring an extensive showing by the applicant.[12]

6. In contrast, a license issued by the Commission gives the licensee the authority to construct and operate a project. Standard license Article 5 require licensees to acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of a project. Where licensees cannot obtain such rights through contract, they may use eminent domain to do so.[13] In consequence, before issuing any license, the Commission conducts a full, searching public interest inquiry, and the licensing process is completely distinct from the permit process.

7. A permit holder is not required to file a license application. Likewise, a developer may study a project without holding a preliminary permit. However, the holding of a permit does give a developer first-in-time preference over any competitors who file applications for projects at the same site, during the permit term. As noted above, it is only if and when a project license is issued that the licensee can, under the conditions imposed in the license, engage in ground-disturbing activities, and if necessary use eminent domain to acquire lands for the project.

8. The Commission has begun to receive preliminary permit applications for proposed projects that would produce electric power through innovative technologies that would take advantage of various types of water movement, including ocean wave action and tides and currents both offshore and in rivers. In the last two years, the Commission has granted permits to study projects off the coast of Florida,[14] in San Francisco Bay,[15] in the East River of New York,[16] and in Puget Sound, Washington.[17] Approximately 45 additional applications of this type are pending.

9. On December 6, 2006, the Commission held a technical conference with respect to the new technologies.[18] At the conference, and in comments subsequently filed by interested entities, the Commission heard a wide variety of ideas regarding the preliminary permit program, ranging from statements that the current program works well for new technologies,[19] to suggestions that the Commission shorten the typical three-year preliminary permit period to 18 months,[20] to comments that the Commission should adopt a much stricter policy with respect to the issuance of preliminary permits for new technology projects, in order to prevent site-banking (the reservation of potential sites without the current intent to develop a project).[21] This diversity of opinion suggested that it would be useful for us to conduct a public inquiry into this subject, to determine if the Commission should in any way change the manner in which it treats preliminary permits for new technology projects.

The Subject of the Notice of Inquiry

10. The Commission seeks comment on the standard of review it should apply to applications for preliminary permits for ocean wave, tidal, and other non-traditional hydropower projects, and how it should regulate those permits during their terms. We outline below three alternatives, and encourage comments on these approaches, as well as the suggestion of any other methods that commenters believe would be fruitful in encouraging and appropriately regulating the initial exploration of new technology projects.

11. We received comments at and following the technical conference concerning the possibility of creating new or modified procedures for the licensing process for new technology projects. We recognize that this issue is complex, given that there are many requirements governing hydropower licensing that are established by law and

Commission concluded that, under specified circumstances, the short-term testing of new hydropower technology would not require a Commission licensse.

[4] 16 U.S.C. 791a, *et seq.* (2000).

[5] *See AquaEnergy Group, LTD.,* 102 FERC ¶61,242 (2003).

[6] 16 U.S.C. 797(f) (2000).

[7] 16 U.S.C. 802 (2000).

[8] 16 U.S.C. 798 (2000).

[9] Nothing in the FPA requires the Commission to issue a preliminary permit; whether to do so is a matter solely within the Commission's discretion.

[10] *See, e.g., Mt. Hope Waterpower Project LLP,* 116 FERC ¶ 61,232 at P 4 (2006) (''The purpose of a preliminary permit is to encourage hydroelectric development by affording its holder priority of application (i.e., guaranteed first-to-file status) with respect to the filing of development applications for the affected site'').

[11] Thus, a permit holder can only enter lands it does not own with the permission of the landholder, and is required to obtain whatever environmental permits federal, state, and local authorities may require before conducting any studies.

[12] *See, e.g., Three Mile Falls Hydro, LLC,* 102 FERC ¶ 61,301 at P 6 (2003); *see also Town of Summersville, W.Va.* v. *FERC,* 780 F.2d 1034 (D.C. Cir. 1986) (discussing nature of preliminary permits).

[13] *See* FPA section 21, 16 U.S.C. § 814 (2000).

[14] *Red Circle Systems Corporation,* 110 FERC ¶ 62,113 (2005); *Red Circle Systems Corporation,* 110 FERC ¶ 62,114 (2005); *Red Circle Systems Corporation,* 110 FERC ¶ 62,115 (2005); *Red Circle Systems Corporation,* 110 FERC ¶ 62,116 (2005); *Red Circle Systems Corporation,* 110 FERC ¶ 62,117 (2005); *Florida Hydro, Inc.,* 110 FERC ¶ 62,270 (2005); *Red Circle Systems Corporation,* 110 FERC ¶ 62,271 (2005); *Red Circle Systems Corporation,* 110 FERC ¶ 62,272 (2005).

[15] *Golden Gate Energy Company,* 113 FERC ¶ 62,028 (2005).

[16] *Verdant Power, LLC,* 113 FERC ¶ 62,193 (2005).

[17] *Tacoma Power,* 114 FERC ¶ 62,174 (2006).

[18] Hydroelectric Infrastructure Technical Conference, Docket No. AD06–13–000.

[19] *See* Comments of Oceania Energy Company (filed December 20, 2006).

[20] *See* Comments of Ocean Renewable Energy Coalition (filed December 20, 2006).

[21] *See* Comments of Gil Sperling, Verdant Power, LLC (technical conference transcript at 106–07).

that an examination of this issue has implications extending to small traditional hydropower projects, as well as those involving new technology. Moreover, we are aware that our staff, with a view towards simplifying and shortening the licensing process where possible, has been able to recommend waiver of certain aspects of the process and to expeditiously process license applications where the applicant has: (a) Chosen a site that minimizes environmental impacts, (b) built consensus among stakeholders (including the local community and state and federal resource agencies) regarding project issues and appropriate environmental measures, and (c) provided the Commission with all necessary information.[22] Such streamlined procedures may be applicable to some new technology projects. Given that we recently received the first license application for this type of project, we are not prepared at this time to decide if these or other procedures can be applied generally to new technology projects in a manner consistent with law and sound policy. However, we will be monitoring new technology proceedings, and as these proceedings evolve, we may consider whether alterations to our process may be appropriate generically or in individual cases. In addition, the Commission will hold a technical conference on this issue at a future date.

A. Maintain Standard Preliminary Permit Approach

12. As noted, traditionally, the Commission has not subjected most preliminary permit applications to extensive scrutiny. Further, the Commission has not often exercised the right it reserves in all preliminary permits to cancel the permit.

13. Continuing to follow this approach could provide some regulatory protection for developing and testing new technology, could prevent ''claim jumping,'' that is, interference with a prospective applicant's ability to investigate the feasibility of a project, and may provide some modest facilitation for financing new projects. On the other hand, this approach would do nothing to resolve the concern we have seen expressed that an entity could site-bank by filing for a number of new technology projects that it has no real intent of developing. It also would not resolve the question, raised in some pending permit proceedings, of how to properly set the boundaries of the area reserved for study by a preliminary permit holder. While it is typically easy to determine the boundaries of a traditional, riverine hydropower project, we have heard contrasting suggestions that establishing strict boundaries for a new technology project would artificially restrict the potential scope of such a project and that allowing too wide boundaries in such cases would encourage site-banking, to the possible detriment of competition in project development.

B. Stricter Scrutiny Approach

14. In the alternative, the Commission could process new technology preliminary permit applications with a view toward limiting the boundaries of the permits, to prevent site-banking and to promote competition. Further, to ensure that permit holders are actively pursuing project exploration, the Commission would carefully scrutinize the reports that permit holders are required to file on a semi-annual basis,[23] and would, where sufficient progress was not shown, consider canceling the permit. Stricter scrutiny could entail requirements such as reports on public outreach and agency consultation, development of study plans, and deadlines for filing a notice of intent to file a license application and a preliminary application document. This approach could reduce site-banking, providing a disincentive for developers to seek permits for projects that they are not ready to pursue. By limiting the geographic scope of permits, we may encourage more thoughtful development of permit applications, as well as competition. On the negative side, this approach could, if not carefully administered, make it more difficult for even well-intentioned and prepared applicants to obtain multiple permits. It also could require additional Commission resources to be devoted to the permit program, both in more carefully examining applications, and in giving stricter scrutiny to progress reports.

C. Decline To Issue Preliminary Permits for New Technology Projects

15. As a third alternative, the Commission could decide, as a matter of policy, not to issue preliminary permits for new technology hydropower projects. In this case, all potential license applicants would have equal opportunities to explore the development of new technology projects, and the Commission would resolve any resultant competition during the licensing phase. This procedure would resolve concerns about site banking during the permit stage, because no entity would have priority with respect to a project site until an application was actually filed. Moreover, the Commission's regulatory authority would not be invoked, and its resources not utilized, until an entity had demonstrated the seriousness of its interest in a project by filing an application. This would leave the market free to explore potential projects, without the possibly artificial constraints imposed by the existence of a preliminary permit held by an entity that lacks the capacity, or does not have a serious intent, to develop a project. On the negative side, potential applicants would not have the guarantee of first-to-file priority while they explored potential projects. To the extent that a preliminary permit provides some assistance in obtaining financing, this aid would no longer be available.

Interim Statement of Policy

16. On balance, the Commission has decided to follow the ''strict scrutiny'' approach during the pendency of this proceeding, because this appears to respond to a significant number of the issues that have been raised at the technical conference and in individual proceedings, particularly with respect to site-banking and the scope of proposed projects. However, we have not in any way decided whether we will ultimately select one of the three alternatives set forth in this notice of inquiry, and perhaps may choose some other approach. We will determine how to proceed only after the Commission has had the opportunity to review and consider the comments filed in response to this notice.

Procedure for Comments

17. The Commission invites interested persons to submit comments, and other information on the matters, issues and specific questions identified in this notice. Comments are due on or before April 30, 2007. Comments must refer to Docket No. RM07–8–000, and must include the commenters' name, the organization they represent, if applicable, and their address.

18. Commenters are requested to use appropriate headings and to double space their comments.

19. Comments may be filed on paper or electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats and commenters may attach additional

[22] *See F & B Wood Corporation,* 117 FERC ¶ 62,059 (2006); *Birch Power Company,* 116 FERC ¶ 62,075 (2006); *Birch Power Company,* 116 FERC ¶ 61,074 (2006); *Wade Jacobson,* 116 FERC ¶ 62,073 (2006).

[23] As a standard condition in all preliminary permits, the Commission requires the permit holder to file progress reports every six months.

files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426.

20. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters are not required to serve copies of their comments on other commenters.

Document Availability

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

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

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

By direction of the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3549 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–157834–06]

RIN 1545–BG28

Corporate Reorganizations; Additional Guidance on Distributions Under Sections 368(a)(1)(D) and 354(b)(1)(B)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that amend § 1.368–2T(l), which provides guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation are issued and distributed in the transaction. These regulations clarify that the rules in § 1.368–2T(l) are not intended to affect the qualification of related party triangular asset acquisitions as reorganizations described in section 368. These regulations affect corporations engaging in such transactions and their shareholders. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by May 30, 2007.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–157834–06), Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered to CC:PA:LPD:PR (REG–157834–06), Courier Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–157834–06).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Bruce A. Decker, (202) 622–7550; concerning submission of comments, requests for a public hearing, and/or a publication and regulations specialist, Kelly Banks, (202) 622–7180.

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1. The temporary regulations amend § 1.368–2T(l), which provides guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation are issued and distributed in the transaction. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Explanation of Provisions

These regulations clarify that the rules in § 1.368–2T(l) are not intended to affect the qualification of related party triangular asset acquisitions as reorganizations described in section 368.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Bruce A. Decker, Office of Associate Chief Counsel (Corporate).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.368–2 is amended by adding paragraph (l)(2)(iv) to read as follows:

§ 1.368–2 Definition of terms.

* * * * *

[The text of this proposed amendment to § 1.368–2(l)(2)(iv) is the same as the text of § 1.368–2T(l)(2)(iv) published elsewhere in this issue of the **Federal Register**].

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7–3533 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2003–0090; FRL–8282–8]

RIN 2060–AO05

Final Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for the Denver Early Action Compact

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to extend the deferred effective date of the air quality designation for the Denver Early Action Compact (EAC) from July 1, 2007 to April 15, 2008. Early Action Compact areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act (CAA) requires. On November 29, 2006, EPA extended the deferred effective date for the Denver EAC area from December 31, 2006, to July 1, 2007. In the same rulemaking, EPA also extended the deferred effective date for 13 other EAC areas from December 31, 2006 to April 15, 2008. In the November 29, 2006, final rulemaking, EPA noted that there were issues with Denver's EAC that would need to be addressed before EPA would extend their deferral until April 15, 2008.

DATES: Comments must be received on or before April 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0090, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: A-and-R-Docket@epa.gov*.
- *Fax:* (202) 566–1741.
- *Mail:* Docket EPA–HQ–OAR–2003–0090, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, Northwest, Washington, DC 20460. Please include two copies.
- *Hand Delivery:* Deliver your comments to: Air Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2003–0090. 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–OAR–2003–0090. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://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 *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment 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 further information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information 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 *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, 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. A reasonable fee may be charged for copying. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Driscoll, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539–04, Research Triangle Park, NC 27711, phone number (919) 541–1051 or by e-mail at: *driscoll.barbara@epa.gov* or Mr. David Cole, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C304–05, Research Triangle Park, NC 27711, phone number (919) 541–5565 or by e-mail at: *cole.david@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies only to the Denver Early Action Compact (EAC) area.

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

1. *Submitting CBI.* Do not submit information that you consider to be CBI electronically through *http://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. Also, send an additional copy clearly marked as above not only to the Air docket but to: Roberto Morales, c/o OAQPS Document Control Officer, (C339–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2004–0014.

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.

C. How Is This Notice Organized?

The information presented in this preamble is organized as follows:

Outline

II. What Is the Purpose of This Document?

The purpose of this document is to propose extending the deferred effective date of the 8-hour ozone nonattainment designation for the Denver EAC area from July 1, 2007 to April 15, 2008.

III. What Action Has EPA Taken to Date for Early Action Compact Areas?

This section discusses EPA's actions to date with respect to deferring the effective date of nonattainment designations for certain areas of the country that are participating in the EAC program. The EPA's April 30, 2004 air quality designation rule (69 FR 23858) provides a description of the compact approach, the requirements for areas participating in the program and the impacts of the program on those areas.

On December 31, 2002, we entered into compacts with 33 communities. To receive the first deferral, these EAC areas agreed to reduce ground-level ozone pollution earlier than the CAA would require. The EPA agreed to provide an initial deferral of the nonattainment designations for those EAC areas that did not meet the 8-hour ozone National Ambient Air Quality Standards (NAAQS) as of April 30, 2004, and to provide subsequent deferrals contingent on performance vis-à-vis certain milestones. On December 16, 2003 (68 FR 70108), we published our proposed rule to defer until September 30, 2005, the effective date of designation for EAC areas that did not meet the 8-hour ozone NAAQS. Fourteen of the 33 compact areas did not meet the 8-hour ozone NAAQS.

Our final designation rule published April 30, 2004 (69 FR 23858), as amended June 18, 2004 (69 FR 34080), included the following actions for compact areas: deferred the effective date of nonattainment designation for 14 compact areas until September 30, 2005; detailed the progress compact areas had made toward completing their milestones; described the actions/milestones required for compact areas in order to remain eligible for a deferred effective date for a nonattainment designation; detailed EPA's schedule for taking further action to determine whether to further defer the effective date of nonattainment designations; and described the consequences for compact areas that do not meet a milestone.

In the April 2004 action, we also discussed three compact areas which did not meet the March 31, 2004 milestone; Knoxville, Memphis, and Chattanooga, Tennessee. Knoxville and Memphis were designated nonattainment effective June 15, 2004. Chattanooga was later determined to have met the March 31, 2004 milestone, and we deferred the designation date until September 30, 2005 (69 FR 34080). This brought the number of participating compact areas to 31. Since then, two additional areas, Haywood and Putnam Counties, Tennessee have withdrawn from the program leaving the participating number of compact areas at 29.

On August 29, 2005, we published a final rule extending the deferred effective date of designation from September 30, 2005, to December 31, 2006, for the same 14 compact areas. In order to receive this second deferral, EAC areas needed to submit a State Implementation Plan with locally adopted measures and a modeled attainment demonstration by December 31, 2004. The EPA approved the State Implementation Plan (SIP) revisions as meeting the EAC Protocol and EPA's EAC regulations at 40 CFR 81.300, and these approvals were the basis for extending the deferred effective date until December 31, 2006. Information on local measures, SIP submittals and background on the EAC program may be found on EPA's Web site at *http://www.epa.gov/ttn/naaqs/ozone/eac/*.

On November 29, 2006, we published a final rule extending the deferred effective date of designation for 13 EAC areas from December 31, 2006 to April 15, 2008, and for the Denver EAC area until July 1, 2007. All compact areas were required to submit two progress reports, one by December 30, 2005, and the other by June 30, 2006. In these progress reports, the States provided information on progress towards implementing local control measures that were incorporated in their SIPs. Each of the EAC areas submitted the required progress reports and these reports are available at *http://www.epa.gov/ttn/naaqs/ozone/eac/*. Issues were noted by the State of Colorado with the Denver EAC area regarding emissions from oil and gas exploration and production condensate

tanks. In a report and action plan submitted by the State of Colorado to EPA, dated June 2, 2006, the State provided information that indicated volatile organic compound (VOC) emissions from oil and gas operations within the Denver EAC area were higher than had been estimated in the attainment demonstration modeling. In response to this issue, the State of Colorado initiated public rulemaking activities to amend Colorado's Regulation No. 7 to require additional emissions reductions from oil and gas exploration and production condensate tanks to achieve the level of reductions relied on in the EPA-approved modeled attainment demonstration. However, an issue arose because the State's rulemaking efforts before the Colorado Air Quality Commission (AQCC) in the latter part of 2006 would not be completed before EPA needed to publish a final rule for the last deferral of the effective date of the nonattainment designations for all of the EAC areas (see 71 FR 69022, November 29, 2006).

Based on the above information, EPA decided to defer the effective date of the nonattainment designation for the Denver EAC area only until July 1, 2007. This decision was designed to accommodate the necessary State rulemaking activities and to also ensure that continued progress was made on the Regulation No. 7 rulemaking actions as they proceeded before the AQCC and State Legislature. In our November 29, 2006 final rulemaking, we detailed a timeline for subsequent rulemaking action for the Denver EAC area which is discussed below.

IV. What Progress Has the Denver Early Action Compact Area Made?

On December 31, 2006, the State of Colorado submitted their progress report for the Denver EAC area to EPA indicating that progress had been made in several areas. On September 21, 2006 the Colorado Department of Public Health and Environment's (CDPHE) Air Pollution Control Division (APCD) presented proposed revisions to Colorado's Regulation No. 7, before the Colorado AQCC, for a more stringent regulatory scheme to control VOC's from oil and gas exploration and production condensate tanks located in the Denver EAC area. These proposed revisions to Section XII of Regulation No. 7 were amended and adopted by the AQCC on December 17, 2006 along with associated revisions to the EPA-approved Denver EAC Ozone Action Plan. These AQCC rulemaking actions will achieve the required VOC emissions reductions from the oil and gas exploration and production condensate tanks that are located within the Denver EAC area boundary. In addition, the State continues working with all parties to reduce emissions of ozone and its precursors.

The EPA's proposed deferral of the effective date of the nonattainment designation of the Denver EAC area to April 15, 2008, is based upon the actions of the AQCC on December 17, 2006 to approve revisions to Colorado's Regulation No. 7 and also in consideration of the review of those AQCC-approved revisions, from January 15, 2007 to February 15, 2007, by the Colorado State Legislature. In view of Colorado's Legislative process for reviewing SIP revisions, we note that as of February 15, 2007 the State Legislature did not object or seek further review of the December 17, 2006 actions of the AQCC. Based on the above, we were advised by the State on February 16, 2007, that the December 17, 2006 actions of the AQCC to adopt changes to its Regulation No. 7 are, therefore, directed by State statute to be submitted to EPA for final approval and incorporation into the State Implementation Plan. We also note that before we take final action on the proposed deferral, we will consider any additional actions of the State, as well as comments received.

V. What Is This Proposed Action for the Denver Early Action Compact Area?

The EPA has determined that sufficient progress has been made by the Denver EAC area in order to propose extending the deferral of the nonattainment designation from July 1, 2007, until April 15, 2008. Based on comments received on this proposal and the actions of the State Legislature, EPA will make a determination on finalizing this extension.

VI. What Is EPA's Schedule for Taking Further Action for Early Action Compact Areas and Specifically for the Denver Early Action Compact Area?

All EAC areas have one remaining milestone which is to demonstrate attainment with the 8-hour ozone NAAQS by December 31, 2007. No later than April 15, 2008, we will determine whether the compact areas that received a deferred effective date of April 15, 2008, attained the 8-hour ozone NAAQS by December 31, 2007, and met all compact milestones. If the area did not attain the standard, the nonattainment designation will take effect. If the compact area attained the standard, EPA will designate the area as attainment. Any compact area that did not attain the NAAQS and thus has an effective nonattainment designation will be subject to the full planning requirements of title I, part D of the CAA, and the area will be required to submit a revised attainment demonstration SIP within 1 year of the effective date of designation. As described above, the Colorado Air Quality Control Commission has undertaken rulemaking to address shortfalls in VOC emissions reductions for the Denver EAC. These rule revisions are designed to achieve greater VOC emission reductions from the oil and gas industry. We note the rule revisions contain a compliance date of May 1, 2007, which is just before the beginning of the Colorado high ozone season.

As noted above, the Colorado Legislature considered these rule revisions from January 15, 2007 to February 15, 2007 and did not object or seek further review of the December 17, 2006 actions of the AQCC to approve these revisions to Colorado's Regulation No. 7. Therefore, pursuant to Colorado State statute and the State Legislative process for considering SIP revisions, as of February 16, 2007 these Regulation No. 7 revisions will be forwarded to the Governor for his submittal to EPA for our approval.

A likely schedule for EPA's subsequent rulemaking action for the deferral of the effective date of the designation of the Denver EAC area to April 15, 2008 is:

—April, 2007; EPA evaluates all public comments.

—May 1, 2007; EPA prepares a final rule and starts its internal concurrence process.

—On or about May 25, 2007; Signature on the final rule by the Administrator.

—June 1, 2007; Publication in the **Federal Register** of the final rule and that rule will have a 30-day effective date.

The above schedule will allow EPA appropriate time to complete a final deferral of the Denver EAC area nonattainment effective date to April 15, 2008, if EPA determines that is the appropriate action to take. As with the other EAC areas with a deferred nonattainment designation, if we extend the deferral of the Denver EAC area's nonattainment designation until April 15, 2008, the area will be designated nonattainment if it doesn't show attainment by December 31, 2007.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (E.O.) 12866 (58 FR 51735; October 4, 1993) and is therefore not subject to review under the E.O.

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 proposed rule does not require the collection of any information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 Office of Management and Budget (OMB) control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

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 Procedures Act or any other statute unless the Agency certifies 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 this proposed rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in 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 this proposed rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. Rather, this rule would extend the deferred effective date of the nonattainment designation for the Denver area to implement control measures and achieve emissions reductions earlier than otherwise required by the CAA in order to attain the 8-hour ozone NAAQS.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any 1 year. In this proposed rule, EPA is deferring the effective date of nonattainment designations for certain areas that have entered into compacts with us. Thus, this proposed rulemaking is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the E.O. to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This proposed rule would not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, E.O. 13132 does not apply to this proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have ''Tribal implications'' as specified in E.O. 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has

implemented a CAA program to attain the 8-hour ozone NAAQS at this time or has participated in a compact.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation.

This proposed rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355; May 22, 2001 because it is not a significant regulatory action under E.O. 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any VCS. The EPA will encourage States that have compact areas to consider the use of such standards, where appropriate, in the development of their SIPs.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629; Feb. 16, 1994 establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7408; 42 U.S.C. 7410; 42 U.S.C. 7501–7511f; 42 U.S.C. 7601(a)(1).

Dated: February 23, 2007.

Stephen L. Johnson,

Administrator.

[FR Doc. E7–3584 Filed 2–28–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 07–29; FCC 07–7]

Implementation of the Cable Television Consumer Protection and Competition Act of 1992 Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act: Sunset of Exclusive Contract Prohibition

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission initiates a review to determine whether the prohibition on exclusive programming contracts continues to be necessary to preserve and protect competition and diversity in the distribution of video programming. Previously, the Commission retained for five years, until October 5, 2007, the prohibition on exclusive contracts. The Commission provided that, during the year before the expiration of the current 5-year extension on October 5, 2007, a review would be undertaken to determine whether or not the exclusivity prohibition should sunset. The Commission also seeks comment on whether and how our procedures for resolving program access disputes under Section 628 should be modified.

DATES: Comments for this proceeding are due on or before April 2, 2007; reply comments are due on or before April 16, 2007.

ADDRESSES: You may submit comments, identified by MB Docket No. 07–29, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Karen Kosar, *Karen.Kosar@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM of Proposed Rulemaking,* FCC 07–7, adopted on February 7, 2007, and released on February 20, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/

or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Summary of the NPRM of Proposed Rulemaking

I. Introduction

1. We issue this *NPRM of Proposed Rulemaking (''NPRM'')* pursuant to Section 628(c)(5) of the Communications Act of 1934, as amended (''Communications Act'') and Section 76.1002(c)(6) of the Commission's rules. In areas served by a cable operator, Section 628(c)(2)(D) generally prohibits exclusive contracts for satellite cable programming or satellite broadcast programming between vertically integrated programming vendors and cable operators. Section 628(c)(5) directed that this prohibition on exclusive programming contracts would cease to be effective on October 5, 2002, unless the Commission found that such prohibition ''continues to be necessary to preserve and protect competition and diversity in the distribution of video programming.'' In a proceeding commenced prior to the sunset date specified by Congress, the Commission examined whether the prohibition should sunset or be extended; *see Implementation of the Cable Television Consumer Protection and Competition Act of 1992—Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act: Sunset of Exclusive Contract Prohibition,* 66 FR 54972–02 (2001) *(''NPRM'').* The Commission concluded that the prohibition remained necessary to preserve and protect competition and diversity in the distribution of video programming and extended the term of the prohibition on exclusive contracts between cable operators and vertically integrated programmers for five years (i.e., through October 5, 2007); *see Implementation of the Cable Television Consumer Protection and Competition Act of 1992—Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act: Sunset of Exclusive Contract Prohibition*, 67 FR 49247–01 (2002) *(''Sunset Report and Order'').* The Commission provided that, during the year before the expiration of the 5-year term, a review would again be undertaken to determine whether the exclusivity prohibition continues to be necessary to preserve and protect competition and diversity in the distribution of video programming. This *NPRM* initiates that review. Further, this *NPRM* also seeks comment on whether and how our procedures for resolving program access disputes under Section 628 should be modified.

II. Background

2. The focus of Congress in enacting the program access provisions, adopted as part of the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), was to encourage entry into the multichannel video programming distribution (''MVPD'') market by existing or potential competitors to traditional cable systems by making available to those entities the programming necessary to enable them to become viable competitors. The 1992 Cable Act and its legislative history reflect congressional findings that increased horizontal concentration of cable operators, combined with extensive vertical integration, created an imbalance of power, both between cable operators and program vendors and between incumbent cable operators and their multichannel competitors. Vertical integration means the combined ownership of cable systems and suppliers of cable programming. Congress concluded at that time that vertically integrated program suppliers had the incentive and ability to favor their affiliated cable operators over other multichannel program distributors, such as other cable systems, home satellite dish (''HSD'') distributors, direct broadcast satellite (''DBS'') providers, satellite master antenna television (''SMATV'') systems, and wireless cable operators; *see Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992: Development of Competition and Diversity in Video Programming Distribution and Carriage*, 58 FR 27658–02 (1993) (''*First Report and Order*''), *recon.*, 59 FR 66255–01 (1994), *further recon.*, 60 FR 3099–01 (1994); *see* 47 U.S.C. 522(13) (''multichannel video programming distributor'' means ''a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming'').

3. When the Commission promulgated regulations implementing the program access provisions of Section 628, it recognized that Congress placed a higher value on new competitive entry into the MVPD marketplace than on the continuation of exclusive distribution practices when such practices impede this entry. Congress absolutely prohibited exclusive contracts for satellite cable programming or satellite broadcast programming between vertically integrated programming vendors and cable operators in areas unserved by cable, and generally prohibited exclusive contracts within areas served by cable. The term ''satellite cable programming'' means video programming which is transmitted via satellite and which is primarily intended for direct receipt by cable operators for their retransmission to cable subscribers, except that such term does not include satellite broadcast programming. The term ''satellite broadcast programming'' means broadcast video programming when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster. Specifically, the prohibition with regard to served areas, Section 628(c)(2)(D), states that:

> with respect to distribution to persons in areas served by a cable operator, [the Commission shall] prohibit exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest or a satellite broadcast programming vendor in which a cable operator has an attributable interest, unless the Commission determines * * * that such contract is in the public interest.

Thus, in areas served by cable, the prohibition is not absolute. Congress

recognized that, in areas served by cable, some exclusive contracts may serve the public interest by providing offsetting benefits to the video programming market or assisting in the development of competition among MVPDs. Any cable operator, satellite cable programming vendor in which a cable operator has an attributable interest, or satellite broadcast programming vendor in which a cable operator has an attributable interest seeking to enforce or enter into an exclusive contract in an area served by a cable operator must submit a ''petition for exclusivity'' to the Commission for approval.

4. The Commission's factual findings, analysis, and rationale for retaining the prohibition on exclusivity are fully set forth in the *Sunset Report and Order* and need not be reiterated here, other than to note that the Commission concluded that:

> [t]he competitive landscape of the market for the distribution of multichannel video programming has changed for the better since 1992. The number of MVPDs that compete with cable and the number of subscribers served by those MVPDs have increased significantly. We find, however, that the concern on which Congress based the program access provisions—that in the absence of regulation, vertically integrated programmers have the ability and incentive to favor affiliated cable operators over nonaffiliated cable operators and programming distributors using other technologies such that competition and diversity in the distribution of video programming would not be preserved and protected—persists in the current marketplace.

Specific aspects of the *Sunset Report and Order* will be discussed below where relevant to provide context for the matters upon which we seek inquiry in this *NPRM.*

III. Notice of Proposed Rulemaking

A. Sunset of Exclusive Contract Prohibition

5. Congress based the program access provisions on its concern that in the absence of regulation, vertically integrated programmers have the incentive and ability to favor affiliated cable operators over nonaffiliated cable operators and programming distributors using other technologies such that competition and diversity in the distribution of video programming would not be preserved and protected. We ask whether this concern has diminished or increased in today's marketplace.

6. In the *Sunset Report and Order*, the Commission examined the status of the MVPD market over the decade between the adoption of the program access provisions and the sunset review. The Commission observed that cable's overall market share declined from 95 percent in 1992 to 78 percent at the time of the *Sunset Report and Order.* The Commission also considered DBS, which at the time served 18 percent of MVPD households. Finally, the Commission noted that other competitors such as multichannel multipoint distribution service (''MMDS''), SMATV, and HSD, had not fared as well, comprising less than four percent of all MVPD subscribers. As of June 2005, basic cable subscribers comprised approximately 69 percent of all MVPD households and DIRECTV and EchoStar Communications Corporation (''EchoStar'') (marketed as the DISH Network) served approximately 27.7 percent of all MVPD households nationwide. As of June 2005, MMDS, SMATV and HSD operators served less than three percent of all MVPD subscribers. How has the exclusivity prohibition impacted the general state of competition among MVPD operators? We seek comment on the current status of all these current MVPD competitors to cable and their continued viability should the prohibition on exclusivity be permitted to sunset. In addition, how would the absence of an exclusivity prohibition affect the likelihood that potential MVPD competitors will enter the market?

7. We request information as to whether developments in the marketplace since the passage of the 1992 Cable Act and our 2002 sunset review have diminished or increased the need for the exclusivity prohibition. In this regard, we seek comment on three events which have occurred in the multichannel programming market since our 2002 sunset review. First, we seek comment on the increase in the provision of MVPD service by local exchange carriers (''LECs''). For example, AT&T is moving forward with its IP-enabled broadband network called ''Project Lightspeed,'' using both Fiber to the Node (''FTTN'') and Fiber to the Home (''FTTH'') to deliver video and other services to residential customers. AT&T states that it currently has approximately 3,000 customers, with more projected once it launches beyond San Antonio, Texas. In addition, Verizon is deploying a FTTH network that delivers video, telephony, and high-speed Internet access service. Verizon estimates that it had 100,000 video subscribers at the end of the 3rd quarter, 2006, and that they will have 175,000 video subscribers and pass 1.8 million households by the end of 2006. Second, we seek comment on the impact of the acquisition of control of the assets of Hughes Electronics Corporation by The News Corporation Limited (''News Corp.''). Through this transaction, News Corp. placed under common control DIRECTV, the nation's second largest MVPD, and the broadcast and multichannel programming assets of the Fox Entertainment Group. We note that in this decision, the Commission placed certain conditions on News Corp. and DIRECTV in order to ensure that the access and non-discrimination requirements of the program access rules would continue to apply to News Corp.'s national and regional cable programming, and to obtain additional protections encompassed by the parties' related commitments. Further, the Commission stated that these conditions would continue to apply as long as it deemed News Corp. to have an attributable interest in DIRECTV and the Commission's program access rules relating to satellite cable programming vendors affiliated with cable operators are in effect. If the Commission's program access rules are modified, then the Commission determined that these conditions would be modified to conform to the Commission's revised rules. We note that News Corp. recently proposed an $11 billion asset swap with Liberty Media to trade News Corp.'s 38 percent stake in DIRECTV and some other assets for Liberty's shareholding in News Corp. This proposal, if approved, would give Liberty control of DIRECTV. Finally, we seek comment on the recent acquisition by Comcast Corporation and Time Warner, Inc. of the assets of Adelphia Communications Corporation. We seek comment on the extent, if any, to which these specific events should inform our analysis of whether to retain the prohibition on exclusivity. In addition, we seek comment on any other relevant developments in the MVPD market since our 2002 sunset review that we should consider in deciding whether to retain the prohibition on exclusivity.

8. We ask whether competitive MVPDs' access to what some refer to as ''marquee'' or ''must have'' vertically integrated programming, such as CNN, HBO, TNT, Discovery and others, remains essential to successful implementation of competitive services. Does satellite-delivered vertically integrated programming remain necessary to the viability of competitive MVPDs because there is no good substitute programming available? We also ask whether the retention of the exclusivity prohibition affects access to national and regional sports

programming networks. We seek comment on the effects that the exclusivity prohibition has had on the development and production of programming for the current MVPD marketplace. We concluded in the *Sunset Report and Order* that the retention of the exclusivity prohibition would not reduce incentives to create new or diverse programming. In support, we noted that the number of national programming services increased from the exclusivity prohibition's inception in 1992 from 87 to 294 in 2001. We also noted that the number of vertically integrated programming services nearly doubled from 56 in 1994 to 104 in 2001 and concluded that the ban did not serve as a disincentive for cable MSOs to develop new cable networks. Since the extension of the exclusivity ban in 2002, has there been a significant overall increase or decrease in the development, promotion, and launch of new and diverse programming services? We note that, our most recent report on the status of video competition found that, as of June 2005, there were 531 satellite-delivered national programming networks. How has the exclusivity prohibition affected investment incentives in the current marketplace for both vertically integrated and independent programming? We also ask if there has been any change in the resources of nonaffiliated cable operators and competitive MVPDs and their ability to develop their own programming, thereby limiting their dependence on ''must have'' vertically integrated programming. Finally, we ask what effect the retention of the exclusivity ban has had on the launch of local origination programming that may have a more limited geographic appeal.

9. We also ask how the current state of cable system clusters and distribution of regional video programming services affiliated with cable operators should affect our decision regarding the exclusivity prohibition. As the Commission concluded in the *Sunset Report and Order*, ''[w]e believe that clustering, accompanied by an increase in vertically integrated regional programming networks affiliated with cable MSOs that control system clusters, will increase the incentive of cable operators to practice anticompetitive foreclosure of access to vertically integrated programming.'' We seek comment on the continuing validity of this conclusion and whether events since the *Sunset Report and Order* mitigate or exacerbate the impact of clustering. In particular, we seek comment on what impact our recent approval of the acquisition of the assets of Adelphia Communications by Comcast and Time Warner has on this topic. We also seek comment on whether the current state of horizontal consolidation in the cable industry increases incentives for anticompetitive foreclosure of access to vertically integrated programming.

10. We seek comment on whether the exclusivity prohibition continues to be necessary to preserve and protect diversity in the distribution of programming. Our focus in this area is not on programming diversity, but rather on ''preserving and protecting diversity in the *distribution* of video programming—i.e., ensuring that as many MVPDs as possible remain viable distributors of video programming.'' As the Commission observed in the *Sunset Report and Order*, ''[o]ther than the two largest non-cable MVPDs, DirecTV and EchoStar, nonaffiliated cable operators and competitive MVPDs * * * assert that they lack the resources and ability to develop their own programming and are thus dependent on access to the programming of others, including 'must have' vertically integrated programming.'' Does this continue to be true for nonaffiliated cable operators and competitive MVPDs in today's marketplace? We seek comment on whether retention of the exclusivity prohibition in the current climate helps to ensure that as many MVPDs as possible remain viable distributors of video programming. One of Congress' express findings in enacting the 1992 Cable Act was that ''[t]here is a substantial governmental and First Amendment interest in promoting a diversity of views provided through multiple technology media.'' Would the sunset of the exclusivity prohibition in the current state of the market limit or foreclose access to vertically integrated programming so as to jeopardize a diverse market of existing and potential competitors?

11. Congress initially set a 10-year period for Commission review of Section 628(c)(2)(D) in order to determine whether the exclusive contract prohibition continued to be necessary to preserve and protect competition and diversity in the distribution of video programming. After completing its review, the Commission determined in the *Sunset Report and Order* that a five-year term provided a sufficient period in which to initiate a subsequent sunset review. If we determine in this proceeding that Section 628(c)(2)(D) should be retained and extended for another period of years, we seek comment on what time frame would be appropriate, taking into consideration the current and potential future competitive environment. We also seek comment on whether the exclusivity prohibition, if retained, should be automatically abolished depending on the triggering of a specific event or events in the marketplace.

12. We also seek comment on any new trends in the industry that would indicate that the MVPD distribution and program production sectors are moving toward the type of market structure that would support the sunset of the exclusivity prohibition. Finally, we seek comment on any other issues appropriate to our inquiry in accordance with Section 628(c)(5).

B. Program Access Complaint Procedures

13. This *NPRM* also seeks comment on whether and how our procedures for resolving program access disputes under Section 628 should be modified. Our rules provide that any MVPD aggrieved by conduct that it believes constitutes a violation of Section 628 and the Commission's program access rules may file a complaint at the Commission in accordance with 47 CFR 76.7 and 76.1003. The Commission's rules provide that before an MVPD may file such a complaint, it must first notify the cable operator or satellite programming vendor that it intends to file the complaint. The complaining MVPD must allow the cable operator or vendor 10 days to respond to the prefiling *NPRM* prior to filing its complaint with the Commission. The necessary contents of the complaint are specified in the rules, including a requirement that any damages sought must be clearly stated in the complaint. Once a complaint is filed, the cable operator or satellite programming vendor shall answer within 20 days of service of the complaint. Replies to the answer are due 10 days thereafter. Any program access complaint must be filed within one year of the date on which the MVPD enters into a contract with the programming vendor, the programming vendor offers the programming to the MVPD, or the MVPD notifies the cable operator or programming vendor that it intends to file a complaint with the Commission. The rules also address the determination of the proper damages to be assessed, including a recognition that the parties be given an opportunity to reach agreement on damages. In addition, the Commission has stated its goals for resolution of program access complaints which are: five months from the submission of a complaint for denial of programming cases, and nine months

for all other program access complaints, such as price discrimination cases.

14. We seek comment on whether and how our procedures for resolving program access disputes should be modified. The scope of our inquiry is limited to our rules governing the program access complaint process. In particular, we seek comment on the costs associated with the complaint process and whether the pre-filing *NPRM*, pleading requirements, evidentiary standards, timing, and potential remedies are appropriate and effective. In addition, we seek comment on whether additional time limits would improve the existing process. For instance, we seek comment on whether specific time limits on the Commission, the parties, or others would promote a speedy and just resolution of these disputes.

15. Are the Commission's program access complaint rules and procedures adequate? We seek comment on these issues and on additional procedures that would address infirmities. For example, are complaints resolved in a timely manner? Are our rules governing discovery and protection of confidential information adequate? Should the Commission adopt alternative procedures or remedies such as mandatory standstill agreements and/or arbitration, as it has done in two recent mergers? Commenters that favor these alternative procedures should address the Commission's authority to adopt them.

IV. Administrative Matters

16. *Ex Parte Rules.* This is a permit-but-disclose *NPRM* and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

17. *Comment Information.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

18. *Initial Paperwork Reduction Act Analysis.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

19. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this *NPRM of Proposed Rulemaking.* The IRFA is set forth in the Appendix. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the *Further NPRM*, and they should have a separate and distinct heading designating them as responses to the IRFA.

20. *Additional Information.* For additional information on this proceeding, please contact Karen Kosar, Policy Division, Media Bureau at (202) 418–1053.

V. Initial Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act of 1980, as amended (the ''RFA'') the Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact of the policies and rules proposed in this *NPRM of Proposed Rulemaking (''NPRM'')* on a substantial number of small entities. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* indicated on the first page of this document. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA''). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Regulatory Approaches

22. The focus of the enactment of the program access provisions contained in Section 628 of the Communications Act of 1934, as amended, adopted as part of the Cable Television Consumer Protection and Competition Act of 1992, was to encourage entry into the multichannel video programming distribution market (''MVPD'') by

existing or potential competitors to traditional cable systems by making available to those entities the programming necessary to empower them to become viable competitors. Specifically, this proceeding involves Section 628(c)(2)(D), which prohibits, in areas served by a cable operator, exclusive contracts for satellite cable programming or satellite broadcast programming between vertically integrated programming vendors and cable operators unless the Commission determines that such exclusivity is in the public interest.

23. Section 628(c)(5) directed that the prohibition contained in Section 628(c)(2)(D) should cease to be effective on October 5, 2002, unless the Commission found that such prohibition ''continues to be necessary to preserve and protect competition and diversity in the distribution of video programming.'' The Commission initiated its proceeding in the matter by issuing a *NPRM of Proposed Rulemaking* seeking comment on the possible sunset of Section 628(c)(2)(D) in October 2001. The Commission's *Report and Order*, issued in June 2002, concluded that the term of the prohibition on exclusive contracts between cable operators and vertically integrated programmers should be extended for five (5) years from October 5, 2002. The prohibition on exclusivity is therefore set to expire on October 5, 2007, unless circumstances in the video programming marketplace indicate that the prohibition continues to be necessary within the meaning of the statute. The Commission has stated during the year before the expiration of the 5-year term, a review again will be undertaken to determine whether the exclusivity prohibition continues to be necessary to preserve and protect competition and diversity in the distribution of video programming. This *NPRM* initiate this review.

B. Legal Basis

24. The authority for the action proposed in the rulemaking is contained in Section 4(i), 303 and 628 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303 and 548.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

25. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

26. *Cable and Other Program Distribution.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged as third-party distribution systems for broadcast programming. The establishments of this industry deliver visual, aural, or textual programming received from cable networks, local television stations, or radio networks to consumers via cable or direct-to-home satellite systems on a subscription or fee basis. These establishments do not generally originate programming material.'' The SBA has developed a small business size standard for Cable and Other Program Distribution, which is: all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million. An additional 61 firms had annual receipts of $25 million or more. Thus, under this size standard, the majority of firms can be considered small.

27. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000–19,999 subscribers. Thus, under this second size standard, most cable systems are small.

28. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard. The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.901(f) of the Commission's rules.

29. *Direct Broadcast Satellite (''DBS'') Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Cable and Other Program Distribution. This definition provides that a small entity is one with $13.5 million or less in annual receipts. Currently, only four operators hold licenses to provide DBS service, which requires a great investment of capital for operation. All four currently offer subscription services. Two of these four DBS operators, DIRECTV and EchoStar Communications Corporation (''EchoStar''), report annual revenues that are in excess of the threshold for a small business. A third operator, Rainbow DBS, is a subsidiary of Cablevision's Rainbow Network, which also reports annual revenues in excess of $13.5 million, and thus does not qualify as a small business. The fourth DBS operator, Dominion Video Satellite, Inc. (''Dominion''), offers religious (Christian) programming and does not report its annual receipts. The Commission does not know of any source which provides this information and, thus, we have no way of confirming whether Dominion qualifies

as a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS licensee. Nevertheless, given the absence of specific data on this point, we acknowledge the possibility that there are entrants in this field that may not yet have generated $13.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

30. *Private Cable Operators (PCOs) also known as Satellite Master Antenna Television (SMATV) Systems.* PCOs, also known as SMATV systems or private communication operators, are video distribution facilities that use closed transmission paths without using any public right-of-way. PCOs acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. The SBA definition of small entities for Cable and Other Program Distribution Services includes PCOs and, thus, small entities are defined as all such companies generating $13.5 million or less in annual receipts. Currently, there are approximately 135 members in the Independent Multi-Family Communications Council (IMCC), the trade association that represents PCOs. Individual PCOs often serve approximately 3,000–4,000 subscribers, but the larger operations serve as many as 15,000–55,000 subscribers. In total, PCOs currently serve approximately 1.1 million subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten PCOs, we believe that a substantial number of PCO may qualify as small entities.

31. *Home Satellite Dish (''HSD'') Service.* Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Cable and Other Program Distribution, which includes all such companies generating $13.5 million or less in revenue annually. HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. There are approximately 30 satellites operating in the C-band, which carry over 500 channels of programming combined; approximately 350 channels are available free of charge and 150 are scrambled and require a subscription. HSD is difficult to quantify in terms of annual revenue. HSD owners have access to program channels placed on C-band satellites by programmers for receipt and distribution by MVPDs. Commission data shows that, between June 2003 and June 2004, HSD subscribership fell from 502,191 subscribers to 335,766 subscribers, a decline of more than 33 percent. The Commission has no information regarding the annual revenue of the four C-Band distributors.

32. *Wireless Cable Systems.* Wireless cable systems use the Multipoint Distribution Service (''MDS'') and Instructional Television Fixed Service (''ITFS'') frequencies in the 2 GHz band to transmit video programming and provide broadband services to subscribers. Local Multipoint Distribution Service (''LMDS'') is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. As previously noted, the SBA definition of small entities for Cable and Other Program Distribution, which includes such companies generating $13.5 million in annual receipts, appears applicable to MDS, ITFS and LMDS. In addition, the Commission has defined small MDS and LMDS entities in the context of Commission license auctions.

33. In the 1996 MDS auction, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities. We also note that MDS licensees and wireless cable operators that did not participate in the MDS auction must rely on the SBA definition of small entities for Cable and Other Program Distribution, which is: Such entities do not generate revenue in excess of $13.5 million annually. We estimate that the majority of these entities are small.

34. While SBA approval for a Commission-defined small business size standard applicable to ITFS is pending, educational institutions are included in this analysis as small entities. There are currently 2,032 ITFS licensees, and all but 100 of these licenses are held by educational institutions. Thus, the Commission estimates that at least 1,932 ITFS licensees are small businesses.

35. In the 1998 and 1999 LMDS auctions, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. Moreover, the Commission added an additional classification for a ''very small business,'' which was defined as an entity that had annual average gross revenues of less than $15 million in the previous three calendar years. These definitions of ''small business'' and ''very small business'' in the context of the LMDS auctions have been approved by the SBA. In the first LMDS auction, 104 bidders won 864 licenses. Of the 104 auction winners, 93 claimed status as small or very small businesses. In the LMDS re-auction, 40 bidders won 161 licenses. Based on this information, we believe that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

36. *Open Video Systems (''OVS'').* The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA-recognized definition of Cable and Other Program Distribution Services, which provides that a small entity is one with $13.5 million or less in annual receipts. The Commission has certified 25 OVS operators with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises, even though OVS is one of four statutorily-recognized options for local exchange carriers (LECs) to offer video programming services. As of June 2003, BSPs served approximately 1.4 million subscribers, representing 1.49 percent of all MVPD households. Among BSPs, however, those operating under the OVS framework are in the minority, with

approximately eight percent operating with an OVS certification. Serving approximately 460,000 of these subscribers, Affiliates of Residential Communications Network, Inc. (''RCN'') is currently the largest BSP and 11th largest MVPD. RCN received approval to operate OVS systems in New York City, Boston, Washington, D.C. and other areas. The Commission does not have financial information regarding the entities authorized to provide OVS, some of which may not yet be operational. We thus believe that at least some of the OVS operators may qualify as small entities.

37. *Cable and Other Subscription Programming.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis * * *. These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.'' The SBA has developed a small business size standard for firms within this category, which is: firms with $13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were 270 firms in this category that operated for the entire year. Of this total, 217 firms had annual receipts of under $10 million and 13 firms had annual receipts of $10 million to $24,999,999. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

38. A ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope.

39. *Incumbent Local Exchange Carriers (''LECs'').* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses.

40. *Competitive Local Exchange Carriers, Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.''* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are ''Other Local Service Providers.'' Of the 39, an estimated 38 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities.

41. *Electric Power Generation, Transmission and Distribution.* The Census Bureau defines this category as follows: ''This industry group comprises establishments primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer.'' The SBA has developed a small business size standard for firms in this category: ''A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.'' According to Census Bureau data for 2002, there were 1,644 firms in this category that operated for the entire year. Census data do not track electric output and we have not determined how many of these firms fit the SBA size standard for small, with no more than 4 million megawatt hours of electric output. Consequently, we estimate that 1,644 or fewer firms may be considered small under the SBA small business size standard.

D. Description of Proposed Reporting, Recordkeeping and Other Compliance Requirements

42. The *NPRM* seeks comment on the possible sunset or the retention of Section 628(c)(2)(D) of the Communications Act. The *NPRM* also seeks comment on whether and how our procedures for resolving program access disputes under Section 628 should be modified. The *NPRM* does not propose any specific reporting, recordkeeping or other compliance requirements.

E. Steps Taken To Minimize Significant Impact on Small Entities and Significant Alternatives Considered

43. The RFA requires an agency to describe any significant alternatives that it has considered in proposing regulatory approaches, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The *NPRM* again seeks comment on whether Section 628(c)(2)(D) should cease to be effective, pursuant to the sunset provision in Section 628(c)(5), or whether Section 628(c)(2)(D) should be retained. Thus, the *NPRM* invites comment on issues that may impact some small entities. The *NPRM* seeks comment on what impact the retention of the exclusivity prohibition has had on the multichannel video programming distribution market (''MVPD'') overall. More specifically, the *NPRM* inquires what impact the provision has had on the entry of new competitive MVPDs into the marketplace. It further inquires about access by competitive MVPDs to ''marquee'' or ''must have'' programming and whether these services still remain essential to the successful implementation of

competitive services. The *NPRM* also seeks information on what impact cable system clusters, the distribution of regional programming services, and horizontal consolidation have on the programming marketplace. The *NPRM* also inquires about whether there has been any change in the resources and ability of nonaffiliated cable operators and competitive MVPDs to develop their own programming. In addition, comment is sought on what effect the prohibition has had on preserving and protecting diversity in the distribution of video programming.

F. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals

None.

VI. Ordering Clauses

44. Accordingly, *it is ordered* that, pursuant to the authority contained in Sections 4(i), 303 and 628 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303 and 548, *notice is hereby given* of the proposals described in this *NPRM* of Proposed Rulemaking.

45. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *NPRM of Proposed Rule Making,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–3520 Filed 2–28–07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 070215034–7034–01; I.D. 020907D]

RIN 0648–AU98

Sea Turtle Conservation; Fishing Gear Inspection Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to establish an inspection program for modified pound net leaders in the Virginia waters of the mainstem Chesapeake Bay. Current regulations require modified pound net leaders, as defined in the regulations, in a portion of the Virginia Chesapeake Bay, and allow them to be used in a different portion of the Chesapeake Bay. This proposed action would ensure that leaders used in those areas do in fact meet the definition of a modified pound net leader. This action, taken under the Endangered Species Act of 1973 (ESA), as amended, is intended to facilitate compliance with the existing regulation, which is designed to help protect threatened and endangered sea turtles.

DATES: Comments on this action are requested, and must be received at the appropriate address or fax number (see **ADDRESSES**) by no later than 5 p.m., eastern daylight time, on April 2, 2007.

ADDRESSES: Written comments may be submitted on this proposed rule, identified by RIN 0648–AU98, by any one of the following methods:

(1) E-mail: *poundnetinspection@noaa.gov*. Please include the RIN 0648–AU98 in the subject line of the message.

(2) Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions on the website for submitting comments.

(3) NMFS/Northeast Region Website: *http://www.nero.noaa.gov/nero/regs/com.html* Follow the instructions on the website for submitting comments.

(4) Mail: Mary A. Colligan, Assistant Regional Administrator for Protected Resources, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930, ATTN: Sea Turtle Conservation Measures, Proposed Rule

(5) Facsimile (fax): 978–281–9394, ATTN: Sea Turtle Conservation Measures, Proposed Rule

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in one of the above formats and by e-mail to *David__Rostker@omb.eop.gov,* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Pasquale Scida (ph. 978–281–9208, fax 978–281–9394), or Barbara Schroeder (ph. 301–713–2322, fax 301–427–2522).

SUPPLEMENTARY INFORMATION:

Background

Based upon documented sea turtle interactions with pound net leaders, NMFS issued a final rule on May 5, 2004 (69 FR 24997), that prohibited the use of offshore pound net leaders from May 6 to July 15 in an area now referred to as ''Pound Net Regulated Area I''. Pound Net Regulated Area I is defined as the Virginia waters of the mainstem Chesapeake Bay, south of 37°19.0′ N. lat. and west of 76°13.0′ W. long., and all waters south of 37°13.0′ N. lat. to the Chesapeake Bay Bridge Tunnel (extending from approximately 37°05′ N. lat., 75°59′ W. long. to 36°55′ N. lat., 76 08′ W. long.) at the mouth of the Chesapeake Bay, and the portion of the James River downstream of the Hampton Roads Bridge Tunnel (I–64; approximately 36°59.55′ N. lat., 76° 18.64′ W. long.) and the York River downstream of the Coleman Memorial Bridge (Route 17; approximately 37°14.55′ N. lat, 76°30.40′ W. long.). An offshore pound net leader refers to a leader with the inland end set greater than 10 horizontal feet (3 m) from the mean low water line. The May 2004 rule also placed restrictions on nearshore pound net leaders in Pound Net Regulated Area I and on all pound net leaders employed in ''Pound Net Regulated Area II.'' Pound Net Regulated Area II refers to Virginia waters of the Chesapeake Bay, outside of Pound Net Regulated Area I as defined above, extending to the Maryland-Virginia State line (approximately 37°55′ N. lat., 75°55′ W. long.), the Great Wicomico River downstream of the Jessie Dupont Memorial Highway Bridge (Route 200; approximately 37°50.84′ N. lat, 76°22.09′ W. long.), the Rappahannock River downstream of the Robert Opie Norris Jr. Bridge (Route 3; approximately 37°37.44′ N. lat, 76°25.40′ W. long.), and the Piankatank River downstream of the Route 3 Bridge (approximately 37°30.62′ N. lat, 76°25.19′ W. long.) to the COLREGS line at the mouth of the Chesapeake Bay. According to the 2004 rule, nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II must have mesh size less than 12 inches (30.5 cm) stretched mesh and may not employ stringers.

In 2004 and 2005, NMFS implemented a coordinated research program with pound net industry participants and other interested parties to develop and test a modified pound net leader design with the goal of eliminating or reducing sea turtle interactions while retaining an acceptable level of fish catch. The modified pound net leader design used in the experiment consisted of a combination of mesh and stiff vertical lines. The mesh size was equal to or less than 8 inches (20.3 cm). The mesh was positioned at a depth that was no more than one-third the depth of the water.

The vertical lines were 5/16 inch (0.8 cm) in diameter strung vertically at a minimum of every 2 feet (61 cm) and attached to a top line. The vertical lines rose from the top of the mesh up to a top line to which they were attached. In 2005, hard lay line was used for the vertical lines in order to make them stiffer. The hard lay lines used in 2005 were made of 5/16 inch (0.8 cm) sinking line, and were polyester-wrapped around Polysteel, which is a blend of polypropylene and polyethylene. The design was based on the premise that the sea turtles would pass through the upper two-thirds of the leader, through the stiff vertical lines, without entangling in or impinging on the leader.

During the 2–year study, the modified leader was found to be effective in reducing sea turtle interactions as compared to the unmodified leader. The final results of the 2004 study found that out of eight turtles impinged on or entangled in the leaders of pound nets, seven were impinged on or entangled in an unmodified leader. One leatherback turtle was found entangled in a modified leader. In response to the leatherback entanglement, the gear was further modified by increasing the stiffness of the vertical lines for the 2005 experiment. The 2005 experiment found that 15 turtles entangled in unmodified leaders, but no turtles were impinged on or entangled in modified leaders. Furthermore, results of the finfish catch comparison suggest that the modified leader caught similar quantities and size compositions as the unmodified leader.

Based upon these results, on June 23, 2006, NMFS issued a final rule (71 FR 36024) that required any offshore pound net leader in Pound Net Regulated Area I during the time period from May 6 through July 15 to meet the definition of a modified pound net leader. A modified pound net leader was defined as a pound net leader that is affixed to or resting on the sea floor and made of a lower portion of mesh and an upper portion of only vertical lines such that (a) the mesh size is equal to or less than 8 inches (20.3 cm) stretched mesh; (b) at any particular point along the leader the height of the mesh from the seafloor to the top of the mesh must be no more than one-third the depth of the water at mean lower low water directly above that particular point; (c) the mesh is held in place by vertical lines that extend from the top of the mesh up to a top line, which is a line that forms the uppermost part of the pound net leader; (d) the vertical lines are equal to or greater than 5/16–inch (0.8–cm) in diameter and strung vertically at a minimum of every 2 feet (61 cm); and (e) the vertical lines are hard lay lines with a level of stiffness equivalent to the stiffness of a 5/16 inch (0.8 cm) diameter line composed of polyester wrapped around a blend of polypropylene and polyethylene and containing approximately 42 visible twists of strands per foot of line.

Existing mesh size and stringer restrictions on nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II remain in place from May 6 through July 15 each year. However, the June 2006 rule created an exception to those restrictions by allowing the use of modified pound net leaders during that period in nearshore pound net leaders in Pound Net Regulated Area I and all pound net leaders in Pound Net Regulated Area II. The year-round reporting and monitoring requirements for this fishery and the framework mechanism under the existing regulations (May 5, 2004, 69 FR 24997) also remained in effect.

The Proposed Action

After the 2006 final rule was published, NMFS determined that an onshore inspection program that examines a modified leader ready for deployment would help ensure the protection of sea turtles, while avoiding the difficulties of and potential costs to fishermen associated with post-deployment inspections at-sea. For example, most of the pound net leader is typically set under the water, the water clarity in the Chesapeake Bay is generally poor, and there may be debris in the water that could endanger the inspector. In addition, if a fisherman was asked to haul the leader for an inspection once it was deployed, there would be a loss in fishing time. The modified leader configuration was developed to protect sea turtles, and it is important that the leaders deployed in this fishery meet the same standards as those tested in 2004 and 2005 and now embodied in the regulations. NMFS proposes an inspection program that would: (1) Provide fishermen with the assurance that their leaders meet the definition of a modified pound net leader before setting their gear, thereby avoiding the costs associated with having to haul their gear during the fishing season, fix any parts of the leader determined by an authorized officer during an at-sea inspection to be non-compliant with the regulation, and reset the gear; (2) provide managers with the knowledge that the offshore leaders in Pound Net Regulated Area I are configured in a ''turtle-safe'' manner; and (3) aid in enforcement efforts.

If a pound net fisherman intends to use a modified pound net leader anywhere in Pound Net Regulated Area I or Pound Net Regulated Area II at any time during the period from May 6 through July 15, he or she would adhere to the following requirements of the inspection program. First, the pound net fisherman, or his/her representative, would call NMFS at 757–414–0128 at least 72 hours before the modified leaders are to be deployed. During this call, the fisherman or representative and NMFS would discuss a meeting date, time, and location, as well as the fisherman's plans for setting his/her gear. While NMFS realizes that setting pound net gear is dependent upon weather conditions, allotting a window of 72 hours or more enables the fishermen and NMFS to arrange a mutually agreeable meeting time to examine the modified leaders. The second component of the inspection program involves a meeting between NMFS and the fisherman at the dock or place of leader fabrication, or another mutually agreeable place, to allow NMFS to examine the gear. This inspection may include, but is not limited to, measuring the mesh size, the spacing and diameter of the vertical lines, and the height of the mesh in relation to the entire leader height, as well as examining the hard lay line, to help ensure the modified leader meets the definition of a modified leader as established in the June 2006 final rule. During the inspection, the fisherman must inform NMFS of the specific location of deployment of his or her inspected pound net leader. If the modified leader meets the regulatory requirements, NMFS will tag the leader with one or more tamperproof tags (provided by NMFS) each of which will be marked with a unique identification number. Additionally, the fisherman will receive a letter from NMFS at the time of inspection noting that the leader has been inspected, the date of the inspection, the license holder's name for the site at which the leader will be set, the tag numbers of the attached tags, and the location of the inspected pound net leader. This letter must remain with the fisherman during fishing activities. The fisherman could then set his or her inspected leaders at any time after the dockside check, but the tags must remain on the gear. After tagging by NMFS, the tags may not be tampered with or removed from the inspected nets. Any modification to the tags on the leader, or their removal, is prohibited and voids the inspection information in the letter. If such occurs and the inspection information in the letter

becomes void, the fisherman would not be in compliance with the regulations and be subject to law enforcement action. If the onshore inspection indicates that the gear does not meet the requirements, then the fisherman would be told how to make his or her gear compliant with the regulation before setting it in the water for the season.

Compared to other gear types and fisheries, the pound net fishery in Virginia has several characteristics that make an inspection program such as this necessary, and possible, to implement. The gear is only deployed once during a season (unless later damaged), and the fact that the leaders are below the surface combined with the low water clarity and visibility in Chesapeake Bay make inspection of the gear during the season virtually impossible. The number of pound nets for which the gear modification is required is relatively small (<50), which makes the inspection program feasible to implement.

Current regulations require any offshore pound net leader in Pound Net Regulated Area I to meet the definition of a modified pound net leader, and allow the use of modified pound net leaders in nearshore pound net leaders in Pound Net Regulated Area I and on all pound net leaders in Pound Net Regulated Area II. This inspection program applies to all modified pound net leaders that will be in the Virginia Chesapeake Bay waters at any time during the period from May 6 through July 15. All modified pound net leaders must be inspected by NMFS prior to deployment, regardless of whether it is in Pound Net Regulated Area I or Pound Net Regulated Area II. NMFS can inspect a net at any time during the year, but all modified pound net leaders in Virginia Chesapeake Bay waters during the period from May 6 through July 15 must have been inspected by NMFS. If a tag is damaged, destroyed or lost by debris, vessel traffic, marine life, or any other cause, the fisherman must call NMFS within 48 hours of discovery to report this incident. Pound net fishermen are required to have their modified leaders inspected annually, within one year from the previous date of inspection. Note that if a modified leader is set prior to the issuance of a final rule, the modified leader would be allowed to remain in the water during the 2007 season, but it would need to be inspected if it will be in either Pound Net Regulated Area I or II at any time during the period from May 6 through July 15, in any subsequent year.

According to this proposed rule, if a fisherman chooses to use a modified pound net leader, anywhere in Pound Net Regulated Area I or Pound Net Regulated Area II, at any time during the period from 12:01 a.m. local time on May 6 through 11:59 p.m. local time on July 15 in any year, the pound net leader must be inspected on land by NMFS. This action would be implemented under the authority of the ESA sections 4(d) and 11(f) and is necessary and appropriate to conserve threatened sea turtles and to enforce the provisions of the ESA, including the prohibition on takes of endangered sea turtles.

All of the previously established NMFS regulations affecting sea turtles and pound net leaders in the Chesapeake Bay remain in effect.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS has prepared an initial regulatory flexibility analysis that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble and in the **SUMMARY** section. A summary of the analysis follows:

The fishery affected by this proposed rule is the Virginia pound net fishery in the Chesapeake Bay. The proposed action would establish an inspection program for modified pound net leaders in the Virginia waters of the mainstem Chesapeake Bay.

The Final Environmental Assessment (EA) and Regulatory Impact Review Regulatory Flexibility Act Analysis of Sea Turtle Conservation Measures for the Pound Net Fishery in Virginia Waters of the Chesapeake Bay (June 2006) analyzed the economic impacts of requiring the use of the modified leader for offshore pound nets in Regulated Area I and allowing the use of the modified leader by all other pound nets in the Virginia waters of Chesapeake Bay between May 6 and July 15. The analysis found the rule would increase net revenues for five fishermen in the lower Bay by allowing them to fish offshore pound nets during the regulated time period, compared to the previous 2004 rule that prohibited leaders. The cost of fabricating and deploying the modified leader was more than offset by the increase in revenues. Additionally, the EA noted that the public benefits from turtle protection using the modified leader were indistinguishable from the leader prohibition. This rule does not change those conclusions; rather, it would help to support the benefits identified. If the compliance rate for use of the modified leader for offshore pound nets in Regulated Area I is not 100 percent, there is potential for a reduction in the benefits from turtle protection. The economic incentives for a fisherman to decide not to comply with the existing regulations are minor; however, fishermen may not comply with the modified leader design specifications due to an inadvertent error in construction. In either case, benefits from the existing regulation could be reduced.

The cost to a fisherman of undergoing a land based inspection is small. Assuming that fishing is not impeded by the regulation [1], and the inspection is arranged at a location convenient to the fisherman, the principal cost to fishermen would be the opportunity cost of their time to arrange and undergo the inspection estimated at $21.50 per leader. Assuming telephone costs of $1.25 to arrange the meeting, the total cost would be $22.75 per leader. Fishermen are also required to notify NMFS by telephone if a tag is lost, damaged or destroyed. It is estimated such a call, should it be necessary, would take approximately 5 minutes for an estimated cost of $2.90 per lost/damaged/destroyed tag (considering telephone charges and opportunity cost of time).

The number of fishermen and leaders affected by this proposed rule will depend on how many fishermen adopt the modified leader. At the low end, if we assume that only those fishermen required to use the modified leader in order to fish do so, the estimate is five fishermen in the lower Bay with seven offshore leaders would incur inspection costs. Depending on the number of leaders a fisherman deploys, the cost per fisherman would range from $22.75 to $45.50 or 0.03 to 0.06 percent of average annual revenues per fisherman. A mid-range estimate suggests fishermen would replace all offshore pound net leaders with the modified leader. At the end of five years, 21 fishermen with 32 pound nets would incur costs between $22.75 to $45.50 or 0.03 to 0.08 percent of average annual revenues. At the high end, we can assume that during the normal leader replacement cycle, all fishermen adopted the modified leader for all pound nets used in Pound Net

[1] That is, fishermen are able to fish before the regulated period with an existing leader. Alternatively, if fishermen used the modified leader outside the regulated period, they would generally remove the leader for cleaning/maintenance at some time during the year; if inspection services were available during that time, fishing would not be impeded.

Regulated Areas I and II during May 6 to July 15, the estimate at the end of five years would be 21 fishermen and 46 pound nets. The annual cost per fisherman would range from $22.75 to $91.00, or 0.04 to 0.11 percent of average annual revenues. The total annual cost to the pound net industry would be $159.25 at the low level of adoption, or $1,046.50 under full adoption, which are 0.0073 to 0.0479 percent of industry revenues. Note that the cost of reporting lost, damaged, or destroyed tags is not included in the individual fisherman or industry estimates because there is no verifiable estimate of expected rate of tag loss. If one assumes three tags per leader and a 10–percent loss rate, the total industry cost would increase by $5.80 to $40.60 per year depending on the level of adoption and the year. The alternative to the proposed action is no action, for which there would not be any economic impacts on small entities.

To achieve compliance, the proposed rule would require those fishermen who wish to deploy a modified leader during the period of May 6 through July 15, to make their modified leaders available for inspection and tagging. Additionally, fishermen would be required to retain a letter that the leader is in compliance for the relevant period. Under existing regulations fishermen had to be familiar with the design requirements for the modified leader; this knowledge continues to be required under the proposed rule. In the event that a tagged leader is damaged or destroyed, fishermen would be required to report the loss to NMFS personnel. To access the inspection program and report lost or damaged tags, fishermen would need access to a telephone. No new skills would be required for compliance.

This proposed rule does not duplicate, overlap or conflict with other Federal rules.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for the modified pound net leader certification program is estimated to average a maximum of 2 and one half hours per fisherman (or 51 hours for all Virginia pound net fishermen), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS in one of the formats listed in the **ADDRESSES** section above, and e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Transportation.

Dated: February 23, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 223 is proposed to be amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

* * * * *

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 223.205, paragraphs (b)(16) and (b)(17) are redesignated as (b)(21) and (b)(22), respectively, and paragraphs (b)(16) – (20) are added to read as follows:

§ 223.205 Sea turtles.

* * * * *

(16) Set, tend, or fail to remove a pound net leader in Pound Net Regulated Area I or Pound Net Regulated Area II during the time period from May 6 through July 15 that does not meet the leader construction specifications described in 50 CFR 223.206(d)(10) and 50 CFR 222.102;

(17) Set, tend, or haul a modified pound net leader in Pound Net Regulated Area I or Pound Net Regulated Area II defined in 50 CFR 222.102 and referenced in 50 CFR 223.206(d)(10) during the time period from May 6 through July 15 unless that leader has been inspected, approved, and tagged by NMFS in accordance with 50 CFR 223.206(d)(10)(vii) prior to deploying the leader;

(18) Alter or replace any portion of a pound net leader that has been previously tagged by NMFS in accordance with 50 CFR 223.206(d)(10)(vii) so that the altered or replaced portion is no longer consistent with the modified pound net leader definition in 50 CFR 222.102, unless that altered or replaced portion is inspected and tagged by NMFS in accordance with 50 CFR 223.206(d)(10)(vii) or that alteration or replacement occurs after the regulated period of May 6 through July 15;

(19) Remove, transfer, sell, purchase, affix, or tamper with any tags used by NMFS to mark pound net leaders;

(20) Fish, tend, or haul a modified pound net leader during the time period from May 6 through July 15 unless the fisherman has a pound net leader inspection letter issued by NMFS on board the vessel;

* * * * *

3. In § 223.206, paragraph (d)(10)(vii) is added to read as follows:

§ 223.206 Exemptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(10) * * *

(vii) Modified leader inspection program. Any fisherman planning to set or fish with a modified pound net leader in Pound Net Regulated Area I or Pound Net Regulated Area II at any time during the period from May 6 through July 15 must make his/her leader available for inspection and tagging by NMFS according to the following procedures. At least 72 hours prior to deploying a modified pound net leader, the fisherman, or his/her representative, must call NMFS at 757–414–0128 between 7:00 a.m. and 5:00 p.m. local time and arrange for a mutually agreeable meeting date, time and place. The fisherman must meet NMFS at such location at the designated time and allow NMFS to examine his or her gear to ensure the leader meets the definition of a modified pound net leader. During the inspection, the fisherman must inform NMFS of the specific location where his or her inspected pound net leader will be set. NMFS will inspect the leader and, if it is determined to meet the definition of a modified pound net leader, will tag the modified pound net leader with tamperproof tags. Removing or tampering with any tag placed on the leader by NMFS is prohibited and voids the inspection. If a tag is damaged, destroyed, or lost due to any cause, the fisherman must call

NMFS at 757–414–0128 within 48 hours of discovery to report this incident. After the modified pound net leader is inspected and determined to meet the regulatory definition, NMFS will issue a letter to the fisherman, and the fisherman must retain that letter on board his/her vessel during pound net fishing activities. Modified pound net leaders must be inspected annually, within one year from the previous date of inspection.

* * * * *

[FR Doc. E7–3630 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 40
Thursday, March 1, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Medicine Bow-Routt National Forest and Thunder Basin National Grassland; Wyoming; Thunder Basin Analysis Area Vegetation Management

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service is analyzing the management of rangeland vegetation resources, which includes livestock grazing, on the National Forest Service (NSF) lands within the Thunder Basin National Grasslands. NSF lands that comprise the Thunder Basin Analysis Area will be assessed to determine how existing resource conditions compare to the desired conditions outlined in the Thunder Basin National Grassland Land and Resource Management Plan (LRMP). A management strategy will be developed in order to maintain or improve rangeland and vegetation conditions toward LRMP desired conditions.

DATES: Comments concerning the scope of the analysis must be received by 30 days from the date of publication in the **Federal Register.** The draft environmental impact statement (EIS) is expected July 1, 2007 and the final environmental impact statement is expected September 1, 2007.

ADDRESSES: Written comments concerning this notice should be addressed to Marilee Houtler at 2250 E. Richards, Douglas, WY 82633. Comments may also be sent via e-mail to *rocky-mountain-medicine-bow-routt-douglas-thunder-basin@fs.fed.us.*

All comments including names and addressed when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Douglas Ranger District, 2250 E. Richards, Douglas, WY 82633. Visitors are encouraged to call ahead to (307) 358–4690 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Kyle Schmitt, Rangeland Management Specialist or Misty Hays, Deputy District Ranger, Douglas Ranger District, at the above address (307) 358–4690.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Vegetation resources on approximately 351,192 acres of NFS lands, lying within the Thunder Basis National Grassland boundaries portions of Campbell, Converse, and Weston Counties, Wyoming (Townships 37–44 North, Ranges 66–72 West) are being analyzed to determine if and how existing conditions differ from desired conditions outlined in the 2001 LRMP. Vegetation in the Analysis Area is characteristic of shortgrass prairie, but is mainly comprised of mixed-grass prairie species. Johnson and Larson (1999) describe the Analysis Area as a Big Sagebrush-Wheatgrass Plains Major Vegetation Type, dominated by fairly dense dwarf shrubs, of which most are Wyoming big sagebrush.

A large portion of the Thunder Basin Analysis Area evolved under a history of homesteading in the early twentieth century, but a prolonged drought period combined with the economic depression of the late 1920's and early 1930's caused many of these homesteads to fail. Starting in 1935, land was purchased through the Northeastern Wyoming Land Utilization Project initiated by the Agricultural Adjustment Administration, and continued with the Bankhead Jones Farm Tenant Act of 1937, which was designed to develop a program of land conservation. Administration of these lands was turned over to the Soil Conservation Service the following year, and transferred to the United States Forest Service in 1954.

Today the Thunder Basin National Grassland supports and provides a variety of multiple resource uses and values, which include recreational opportunities, mineral development, wildlife habitat, historical and cultural remnants, as well as domestic livestock grazing. Livestock ranching operations in the area depend on National Grassland acreage to create logical and efficient management units. Cattle, sheep, and horses, in accordance with 10-year term and/or annual temporary livestock grazing permits, are currently authorized to graze the allotments within the Analysis Area.

In order to determine how existing resource conditions compare to desired conditions, data collection was conducted from 2003 to 2006. During this period, drought conditions impacted plant vigor, canopy and litter cover in some parts of the Analysis Area. Data analysis indicates that seral stage and structural objectives are currently not meeting vegetation health desired conditions within some portions of the Analysis Area. Other areas of concern based on data analysis include enhancing vegetation conditions in riparian areas and decreasing the frequency and density of non-native invasive species within the Analysis Area.

Purpose and Need for Action

Need: To continue to authorize livestock grazing and associated vegetation management actions with appropriate identified management options within the Thunder Basin Analysis Area, and to do so in a manner that will resolve any disparities between existing and desired conditions in a suitable timeframe.

Purpose: To implement vegetation management objectives in the Thunder Basin National Grassland Land and Resource Management Plan with goals of increasing native forb and perennial grass diversity, improving riparian area conditions, improving vegetation health, and slowing or decreasing the frequency and density of non-native invasive species. This analysis will serve as a guide for implementation of LRMP vegetation management objectives aimed at improving vegetation and riparian area conditions, providing desired mixes of seral and structural stages of vegetation, as well as establishing appropriate monitoring techniques that will measure the effectiveness of management activities.

Proposed Action

The Forest Service proposes the following actions to meet the need and purpose described above:

—Manage vegetation through an adaptive management process, which

includes authorizing livestock grazing on allotments within the Thunder Basin Analysis Area of the Thunder Basin National Grasslands, that will meet or move toward desired resource conditions.

—Define an allotment specific starting point in which management is believed to be capable of meeting or moving toward desired conditions in a timely manner.

—Monitor to evaluate both implementation and effectiveness of management actions.

In all cases, management will use vegetation management tools that will meet LRMP Objectives, Standards and Guidelines, and maintain or move existing resource conditions toward Geographic Area desired conditions. If monitoring indicates that practices are being properly implemented and that resource trends are moving toward meeting desired conditions in a timely manner, management may continue. If monitoring indicates that there is a need to modify management practices, adaptive options as analyzed in the EIS will be selected and implemented.

Possible Alternatives

(1) No action.
(2) Continued current management.

Responsible Official

Robert M. Sprentall, District Ranger, Douglas Ranger District, 2250 East Richards Street, Douglas, Wyoming 82633, is the official responsible for making the decision on this action. He will document his decision and rational in a Record of Decision.

Nature of Decision To Be Made

The Responsible Official will consider the results of the analysis and its findings and then document the final decision in a Record of Decision (ROD). The decision will determine whether or not to authorize livestock grazing on all, part, or none of the allotments within the Thunder Basin analysis Area, and if so, what adaptive management design criteria, adaptive options, and monitoring will be implemented so as to meet or move toward the desired conditions in the defined timeframe.

Scoping Process

The Forest Service has publicly scoped the proposed action in August 2006 as the Thunder Basin Analysis Area Vegetation Management Environmental Assessment. Individuals who submitted comments on this scoping will still have standing. These comments have been reviewed and are being considered as the analysis continues.

Preliminary Issues

The Forest Service has identified the following preliminary issues: (1) Current impacts to soil resources from the continuing drought, and livestock and wildlife grazing/browsing; (2) Potential impacts to livestock grazing permits on National Grasslands.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the draft environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft EIS will be prepared for comment. The comment period on the draft environmental statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** While public participation is strictly optional at this stage, the Forest Service believes that it is important to give reviewers notice of several court rulings related to public participation in the subsequent environmental review process. First, reviewers of draft statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519,553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day draft environmental impact statement comment period so that comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments also may address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. In addressing these points, reviewers may wish to refer to the Council on Environmental Quality regulations which implement the procedural provisions of the National Environmental Policy Act of 40 CFR 1503.3.

Dated: February 21, 2007.

Misty A. Hays,

Deputy District Ranger.

[FR Doc. 07–919 Filed 2–28–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Meeting, Northwest Forest Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC), Northwest Forest Plan (NWFP), has scheduled a meeting on March 20, 2007 from 8 a.m. to 12 noon. at the DoubleTree Hotel & Executive Meeting Center, 1000 NE Multnomah, Portland, Oregon 97232, (503) 281–6111, in the Multnomah Conference room. We will provide participants with updates on several ongoing projects of interest including monitoring, agency plan revisions, research activities, etc.

The meeting is open to the public and fully accessible for people with disabilities. A 10-minute time slot is reserved for public comments at 8:10 a.m. Interpreters are available upon request at least 10 days prior to the meeting. Written comments may be submitted for the meeting record. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Kath Collier, Management Analyst, Regional Ecosystem Office, 333 SW. First Avenue, P.O. Box 3623, Portland, OR 97208 (telephone: 503–808–2165).

Dated: February 20, 2007.

Anne Badgley,

Designated Federal Official.

[FR Doc. E7–3564 Filed 2–28–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes for Section IV of the Field Office Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice and request for comments.

SUMMARY: It is the intention of NRCS in Maryland to issue new or revised conservation practice standards for Section IV of the Field Office Technical Guide. These standards include, but are not limited to, the following:

Animal Mortality Facility (Code 316); Brush Management (Code 314); Composting Facility (Code 317); Field Border (Code 386); Filter Strip (Code 393); Fish Passage (Code 396); Fishpond Management (Code 399); Forage Harvest Management (Code 511); Forest Stand Improvement (Code 666); Heavy Use Area Protection (Code 561); Hedgerow Planting (Code 422); Irrigation Water Management (Code 449); Manure Transfer (Code 634); Nutrient Management (Code 590); Pasture and Hay Planting (Code 512); Pest Management (Code 595); Pond Sealing or Lining, Compacted Clay Treatment (Code 521D); Prescribed Forestry (Code 409); Streambank and Shoreline Protection (Code 580); Stream Habitat Improvement and Management (Code 395); Structure for Water Control (Code 587); Surface Drain, Field Ditch (Code 607); Tree/Shrub Establishment (Code 612); Use Exclusion (Code 472); Waste Storage Facility (Code 313); Waste Utilization (Code 633); Water and Sediment Control Basin (Code 638); Watering Facility (Code 614); Windbreak/Shelterbelt Establishment (Code 380). Some of these practice standards may be used in conservation systems to comply with Highly Erodible Land and Wetland Conservation provisions of the Farm Bill.

DATES: Revised standards and new standards will be issued periodically during calendar year 2007. There will be a 30-day public comment period for each draft standard. Conservation practice standards will be issued as final after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Electronic copies will be posted on the Internet at the following address: *http://www.nrcs.usda.gov/technical/efotg.* Select Maryland, any county, Section IV, Draft Conservation Practice Standards. Paper copies will be mailed to persons who do not have Internet access. Please submit requests for paper copies to Anne M. Lynn, State Resource Conservationist, Natural Resources Conservation Service, 339 Busch's Frontage Road, Suite 301, Annapolis, MD 21401.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. NRCS will provide a 30-day public review and comment period concerning the proposed changes. At the close of the comment period, NRCS will make a determination regarding any changes to the draft conservation practice standards, and will publish the final standards for use in NRCS field offices. The final standards will also be posted on the Internet at the following address: *http://www.nrcs.usda.gov/technical/efotg.*

Dated: January 31, 2007.

Virginia (Ginger) L. Murphy,

State Conservationist, NRCS, Annapolis, Maryland.

[FR Doc. E7–3358 Filed 2–28–07; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Notice of Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, March 9, 2007, 9 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Rm. 540, Washington, DC 20425.

Meeting Agenda

I. Approval of Agenda.
II. Approval of Minutes of March 1, Meeting.
III. Announcements.
IV. Staff Director's Report.
V. Management and Operations.
- Procedures for Briefing Reports.
- Strategic Planning.

VI. Program Planning.
- Affirmative Action in Law Schools Briefing Report.

VII. State Advisory Committee Issues.
- Fair Housing Initiative.
- Tennessee SAC.

VIII. Future Agenda Items.
IX. Adjourn.

Briefing Agenda

Domestic Wiretapping in the War on Terror.
- Introductory Remarks by Chairman.
- Speakers' Presentation.
- Questions by Commissioners and Staff Director.

FOR FURTHER INFORMATION CONTACT: Manuel Alba, Press and Communications, (202) 376–8582.

David P. Blackwood,

General Counsel.

[FR Doc. 07–980 Filed 2–27–07; 2:30 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Docket 6–2007

Foreign–Trade Zone 196 - Fort Worth, Texas, Request for Manufacturing Authority, Motorola, Inc., (Mobile Phone Kitting)

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Alliance Corridor, Inc., grantee of FTZ 196, requesting authority on behalf of Motorola, Inc. (Motorola) to perform mobile phone kitting under FTZ procedures within FTZ 196. The application was filed on February 16, 2007.

The Motorola facilities (3,800 employees, annual capacity for up to 50 - 60 million mobile phone sets) are located at multiple locations (including those of affiliates and third–party contractors) within Sites 1 and 2 of FTZ 196, and include 4801 Westport Parkway and 15005 Peterson Court, in Fort Worth, Texas. Motorola has requested authority to process (kit) certain imported components into mobile phone sets (2006 HTSUS 8525.20 and proposed 2007 HTSUS 8517.12 and 8517.69 - the phones enter the United States duty–free). The company may source the following potentially dutiable components from abroad (representing 95% of total materials) for processing under FTZ procedures, as described in its application: Nicad batteries (HTSUS 8507.80), power supplies (HTSUS 8504.40), lithium batteries (HTSUS 8507.30), cables (2006 HTSUS 8544.41 and proposed 2007 HTSUS 8544.42), connectors and plugs (HTSUS 8536.69), decals (3919.90), plastic holsters (HTSUS 3926.90), leather carrying cases (HTSUS 4202.31.60.00), leather pouches/cases (HTSUS 4202.91.00.90), plastic carrying cases (HTSUS 4202.92.90.60), leather straps (HTSUS 4205.00.40.00), wrist straps (HTSUS 6307.90), key pads fitted with connectors (HTSUS 8537.10), external speaker sets (HTSUS 8518.22), headsets with microphone (HTSUS 8518.30) and

hands free speaker kits (HTSUS 8518.90). Duty rates on these inputs range from duty–free to 17.6 percent, *ad valorem*.

FTZ procedures would allow Motorola to elect the finished–product duty rate for the imported components listed above. The application indicates that most of the FTZ savings would result from choosing the duty–free rate on mobile phones for imported nicad and lithium batteries (duty rates 3.4% and 2.5% *ad valorem*, respectively). The company indicates that it would also realize logistical/paperwork savings and duty–deferral savings under FTZ procedures. Motorola's application states that the above–cited savings from zone procedures could help improve the international competitiveness of its Texas facilities.

In accordance with the Board's regulations, a member of the FTZ staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 30, 2007. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 15, 2007.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce Export Assistance Center, 808 Throckmorton Street, Fort Worth, TX 76102–6315; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2814B, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, D.C. 20230–0002.

For further information, contact Liz Whiteman at (202) 482–0473.

Dated: February 20, 2007.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E7–3512 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

T–5–2006

Foreign–Trade Zone 196 - Fort Worth, Texas, Temporary/Interim Manufacturing Authority, Motorola, Inc. (Mobile Phone Kitting), Notice of Approval

On November 28, 2006, the Acting Executive Secretary of the Foreign–Trade Zones (FTZ) Board filed an application submitted by the Alliance Corridor, Inc., grantee of FTZ 196, requesting temporary/interim manufacturing (T/IM) authority within FTZ 196, at the mobile phone kitting facilities of Motorola, Inc., located in Fort Worth, Texas.

The application was processed in accordance with T/IM procedures, as authorized by FTZ Board Order 1347 (69 FR 52857, 8/30/04), including notice in the **Federal Register** inviting public comment (71 FR 70947, 12/7/06). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval under T/IM procedures. Pursuant to the authority delegated to the FTZ Board Executive Secretary in Board Order 1347, the application was approved, effective February 20, 2007, until February 20, 2008, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Dated: February 22, 2007.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E7–3513 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–549–813

Canned Pineapple Fruit from Thailand: Initiation of New Shipper Antidumping Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 1, 2007.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Martha Douthit, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2371 or (202) 482–5050, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) received a timely request from C & A Products Co., Ltd. (C&A), in accordance with 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand. *See Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit from Thailand*, 60 FR 36775 (July 18, 1995). C&A identified itself as the producer and exporter of subject merchandise.

As required by 19 CFR 351.214(b)(2)(i),(ii), and (iii)(A), C&A certified it did not export CPF to the United States during the period of investigation (POI), and that it has never been affiliated with any exporter or producer that exported CPF during or after the POI. It also submitted documentation establishing the date on which C&A first shipped the subject merchandise to the United States, the volume of that first and any subsequent shipments, and the date of C&A's first sale to an unaffiliated customer in the United States. C&A states it cannot report the first entry date because the sale was to an unaffiliated customer.

Initiation of Review

In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d)(1), and based on information on the record, we are initiating a new shipper review for C&A. *See Memorandum to the File through Barbara E. Tillman, Director, AD/CVD Operations Office 6, Import Administration from the Team*, ''New Shipper Review Initiation Checklist,'' dated February 21, 2007 on file in the Central Records Unit, room B–099, of the main Commerce building. We intend to issue the preliminary results of this review not later than 180 days after the date on which this review is initiated, and the final results of this review within 90 days after the date on which the preliminary results are issued.

Pursuant to 19 CFR 351.214(g)(1)(i)(B), the POR for a new shipper review initiated in the month immediately following the semiannual anniversary month will be the six-month period immediately preceding the semiannual anniversary month. Therefore, the POR for this new shipper review is July 1, 2006 through December 31, 2006.

Interested parties seeking access to proprietary information in this new shipper review should submit applications for disclosure under

administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are in accordance with section 751(a) of the Act and 19 CFR 351.214(d).

Dated: February 22, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–3511 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Implementation of the Findings of the WTO Panel in US Zeroing (EC): Notice of Initiation of Proceedings Under Section 129 of the URAA; Opportunity to Request Administrative Protective Orders; and Proposed Timetable and Procedures

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Proceedings Under Section 129 of the URAA; Opportunity to Request Administrative Protective Orders; and Proposed Timetable and Procedures

DATES: March 1, 2007.

FOR FURTHER INFORMATION CONTACT: Daniel O'Brien, William Kovatch, or Michael Rill, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave NW, Washington, DC 20230; telephone: (202) 482–1376, (202) 482–5052, or (202) 482–3058, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 2006, the Department published *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin During an Antidumping Investigation; Final Modification; see* 71 FR 77722 (*Final Modification*) in the **Federal Register**. As stated in the Final Modification, the Department will no longer make average–to-average comparisons in antidumping duty investigations without providing offsets for non–dumped comparisons. The Department stated that, among other things, it would apply the *Final Modification* in the implementation of the findings of the WTO panel in *United States - Laws, Regulations and Methodology for Calculating Dumping Margins (''Zeroing'') (WT/DS294) (US Zeroing (EC))* pursuant to section 129 of the Uruguay Round Agreements Act (URAA) with respect to the specific investigations challenged by the EC.

The Department is initiating proceedings to implement the WTO panel's report in *US - Zeroing (EC)*, consistent with section 129 of the URAA (Section 129 Proceedings) in the following antidumping duty investigations:

1. Certain Hot–rolled Carbon Steel from the Netherlands (A–421–807)
2. Stainless Steel Bar from France (A–427–820)
3. Stainless Steel Bar from Germany (A–428–830)
4. Stainless Steel Bar from Italy (A–475–829)
5. Stainless Steel Bar from the United Kingdom (A–412–822)
6. Stainless Steel Wire Rod from Sweden (A–401–806)
7. Stainless Steel Wire Rod from Spain (A–469–807)
8. Stainless Steel Wire Rod from Italy (A–475–820)
9. Certain Stainless Steel Plate in Coils from Belgium (A–423–808)
10. Stainless Steel Sheet and Strip in Coils from Italy (A–475–824)
11. Certain Cut–to-length Carbon–quality Steel Plate from Italy (A–475–826)
12. Certain Pasta from Italy (A–475–818)

Although the EC challenged 15 antidumping duty investigations, the Department revoked the antidumping duty order associated with three of those investigations: Certain Cut–to-Length Carbon–Quality Steel Plate from France (A–427–816), Certain Stainless Steel Sheet and Strip in Coils from France (A–427–814), and Certain Stainless Steel Sheet and Strip in Coils from the United Kingdom (A–412–818). *See Certain Stainless Steel Sheet and Strip in Coils from France and the United Kingdom; Final Results of Sunset Reviews and Revocation of Antidumping Duty Order*, 70 FR 44894 (August 4, 2005); *Revocation of Antidumping Duty Order: Certain Cut–To-Length Carbon–Quality Steel Plate from France*, 70 FR 72787 (December 7, 2005). Pursuant to section 129(c)(1)(B) of the URAA, a determination made under section 129 applies to unliquidated entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which the U.S. Trade Representative directs the Department to implement the determination. The date on which the U.S. Trade Representative directs the Department to implement the determination will necessarily be after the effective date of revocation of the above–cited three investigations. As a result, the Department is not conducting section 129 proceedings with respect to the three investigations.

Scope of the Section 129 Proceedings

The WTO panel found that the Department acted inconsistently with the Antidumping Agreement when it engaged in average–to-average comparisons during the challenged investigations without providing offsets for sales where the export price was greater than normal value. In these Section 129 Proceedings, it is the Department's intention to recalculate the weighted–average dumping margin starting with the calculation of the weighted–average dumping margin in the final determination of the original investigations. Where the Department issued an amended final determination, as a result of litigation or otherwise, the Department intends to start with the calculation of the weighted–average dumping margin in the most recent amended final determination. The Department is opening a separate administrative record in each of these Section 129 Proceedings, and placing on each administrative record an administrative protective order, the relevant databases, and the margin calculation computer program. The Department intends solely to recalculate the dumping margins using the methodology described in the *Final Modification*.

Opportunity to Request an Administrative Protective Order

In accordance with section 351.305(b) of the Department's regulations, interested parties may request access to business proprietary information concerning these proceedings.

Timetable

The Department intends to issue its draft results by February 26, 2007, for each of the subject investigations. Interested parties may submit case briefs no later than two weeks after the issuance of the draft results, consistent with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the deadline for case briefs, consistent with 19 CFR 351.309(d). Interested parties may request a hearing on the issues raised in the case and rebuttal briefs no later than five days after the deadline for the case briefs. *See* 19 CFR 351.310(c) (stating the Secretary may alter the time for submitting a request for a hearing).

The purpose of the Section 129 Proceedings is to render the Department's determination not inconsistent with the findings of the panel. To that end, the Department will

calculate the margins of dumping using the methodology announced in the Final Modification based on the databases on the record of the Section 129 Proceedings. The Department will not accept any submissions prior to the issuance of the draft results. As set forth above, parties may file case briefs and rebuttal briefs after the drafts are issued. In accordance with the Department's regulations, case briefs must present all arguments that are in the submitter's view relevant to the final results. *See* 19 CFR 351.309(c)(2).

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 22, 2007.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E7–3510 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year (''Sunset'') Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year (''Sunset Review'') of the antidumping duty order listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers this same order.

EFFECTIVE DATE: March 1, 2007.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review(s)* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 – *Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–570–867	731–TA–922	PRC	Automotive Replacement Glass Windshields	Juanita Chen (202) 482–1904

Countervailing Duty Proceedings

No countervailing duty proceedings are scheduled for initiation in March 2007.

Suspended Investigations

No suspended investigations are scheduled for initiation in March 2007.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the Department's regulations regarding Sunset Reviews (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of Sunset Reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department's sunset Internet website at the following address: ''*http://ia.ita.doc.gov/sunset/*.'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. *See* 19 CFR 351.218(d)(1)(iii).

For sunset reviews of countervailing duty orders, parties wishing the Department to consider arguments that countervailable subsidy programs have been terminated must include with their substantive responses information and documentation addressing whether the changes to the program were (1) limited to an individual firm or firms and (2) effected by an official act of the government. Further, a party claiming program termination is expected to document that there are no residual benefits under the program and that substitute programs have not been introduced. *Cf.* 19 CFR 351.526(b) and (d). If a party maintains that any of the subsidies countervailed by the Department were not conferred pursuant to a subsidy program, that party should nevertheless address the applicability of the factors set forth in

19 CFR 351.526(b) and (d). Similarly, parties wishing the Department to consider whether a company's change in ownership has extinguished the benefit from prior non–recurring, allocable, subsidies must include with their substantive responses information and documentation supporting their claim that all or almost all of the company's shares or assets were sold in an arm's length transaction, at a price representing fair market value, as described in the *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) (*Modification Notice*). *See Modification Notice* for a discussion of the types of information and documentation the Department requires.

If we receive an order–specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order–specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: February 22, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–3686 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–DS–S

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022207G]

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on March 20–21, 2007. The Council will convene on Tuesday, March 20th, 2007, from 9 a.m. to 5 p.m., and the Administrative Committee will meet from 5:15 p.m. to 6 p.m., on that same day. The Council will reconvene on Wednesday, March 21, 2007, from 9 a.m. to 5 p.m., approximately.

ADDRESSES: The meetings will be held at the Hilton Ponce Golf and Casino, 1150 Caribe Avenue, Ponce, Puerto Rico 00716.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 124th regular public meeting to discuss the items contained in the following agenda:

March 20, 2007

9 a.m. to 5 p.m.

Call to Order
Adoption of Agenda
Consideration of 123rd Council Meeting Verbatim Transcription
Executive Director's Report
MSA New Requirements - Roy Crabtree
Annual Catch Levels and Accountability Measure Requirements - Mark Millikin
Queen Conch Parasite Studies - Dalila Aldana
White Paper on Requirements/Needs to End Overfishing in the US Caribbean - Graciela Garcia-Moliner
Hawaii/US Caribbean Outreach and Education Project - Alida Ortiz

5:15 p.m. to 6 p.m.

Administrative Committee Meeting
Advisory Panel/Scientific and Statistical Committee (SSC)/Habitat Advisory Panel (HAP) Membership
Budget 2007
Changes to the SSC
Other Business

6 p.m. to 7 p.m.

Scoping Comment Period on Annual Catch Level and Accountability Measure Requirements

March 21, 2007

9 a.m. to 5 p.m.

Bycatch/Limited Entry/Spiny Lobster - Bob Trumble
Spiny Lobster Legal Opinion Minimum Size for Imports
Reeffish Project Update PR/USVI - Nancy Cummings
Report Deep Water Species Reproduction Puerto Rico - Aida Rosario
Enforcement Reports
Puerto Rico
U.S. Virgin Islands
NOAA
U.S. Coast Guard
Administrative Committee Recommendations (December 5, 2006 meeting)
Meetings Attended by Council Members and Staff
Other Business
Next Council Meeting

The meetings are open to the public, and will be conducted in English. However, simultaneous interpretation will be provided (English-Spanish). Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: February 26, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–3553 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021607E]

International Whaling Commission; 59th Annual Meeting; Nominations

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

ACTION: Notice; request for nominations.

SUMMARY: This notice is a call for nominees for the U.S. Delegation to the May 2007 International Whaling Commission (IWC) annual meeting. The non-federal representative(s) selected as a result of this nomination process is(are) responsible for providing input and recommendations to the U.S. IWC Commissioner representing the positions of non-governmental organizations. Generally, only one non-governmental position is selected for the U.S. Delegation.

DATES: The IWC is holding its 59th annual meeting from May 28-31, 2007, in Anchorage, Alaska. All written nominations for the U.S. Delegation to the IWC annual meeting must be received by March 30, 2007.

ADDRESSES: All nominations for the U.S. Delegation to the IWC annual meeting should be addressed to Bill Hogarth, U.S. Commissioner to the IWC, and sent via post to: Cheri McCarty, National Marine Fisheries Service, Office of International Affairs, 1315 East West Highway, SSMC3 Room 12603, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Cheri McCarty, 301-713-9090, ext. 183.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the domestic obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. IWC Commissioner has responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other agencies. The non-federal representative(s) selected as a result of this nomination process is(are) responsible for providing input and recommendations to the U.S. IWC Commissioner representing the positions of non-governmental organizations. Generally, only one non-governmental position is selected for the U.S. Delegation.

Dated: February 23, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E7–3611 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022207F]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Squid, Mackerel and Butterfish Committee and Advisory Panel will hold a public meeting.

DATES: The meeting will be held on Wednesday, March 21, 2007, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Congress Hall Hotel, 251 Beach Avenue, Cape May, NJ 08204 (telephone: 609–884–8421).

Council address: Mid-Atlantic Fishery Management Council; 300 S. New Street, Room 2115, Dover, DE 19904, telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; 300 S. New Street, Room 2115, Dover, DE 19904, telephone: (302) 674–2331, extension 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss issues to be addressed in Amendment 11 to the Atlantic, Mackerel, Squid and Butterfish Fishery Management Plan. The primary focus of Amendment 11 will be the development of a limited or controlled access program for the Atlantic mackerel fishery. Other issues identified during scoping which may be discussed include the types of qualifying criteria that the Council should consider for a limited access program for the Atlantic mackerel fishery (including what levels of landings should be considered and what time period should be examined), whether and how the control date of July 5, 2002 should be utilized in establishing qualifying criteria, whether historical participants should be considered differently than newer more recent entrants in the fishery and if separate qualifying criteria should be developed for the directed and incidental catch fishery. Additional issues identified during scoping include the consideration of a trigger mechanism that would implement limited access in the mackerel fishery in the future, vessel upgrade provision, rules governing at sea processing and transfers at sea of Atlantic mackerel, and the degree to which overlap of limited access programs for Atlantic mackerel and herring should be considered. Technical issues which have arisen since scoping which may be discussed for inclusion in this amendment include possible revisions to the overfishing definition for Atlantic mackerel and the specification of allowable biological catch for the species.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Bryan at the Mid-Atlantic Council Office (302) 674–2331 extension 18 at least 5 days prior to the meeting date.

Dated: February 26, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–3552 Filed 2–28–07; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Extension of Approval of Information Collection; Comment Request—Safety Standard for Multi-Purpose Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed request for an extension of approval of a collection of information from manufacturers and importers of multi-purpose lighters. Multi-purpose lighters are hand-held flame-producing products that operate on fuel and have an ignition mechanism. They typically are used to light devices such as charcoal and gas grills and fireplaces. Devices intended primarily for igniting smoking materials are excluded from the multi-purpose lighter category.

This collection of information consists of testing and recordkeeping requirements in certification regulations implementing the Safety Standard for Multi-Purpose Lighters. 16 CFR part 1212. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget (OMB).

DATES: The Office of the Secretary must receive written comments not later than April 30, 2007.

ADDRESSES: Written comments should be captioned ''Multi-Purpose Lighters'' and e-mailed to *cpsc-os@cpsc.gov*. Comments may also be sent by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: For information about the proposed renewal of this collection of information, or to obtain a copy of the pertinent regulations, call or write Linda L. Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; (301) 504–7671, or by e-mail to *lglatz@cpsc.gov*.

SUPPLEMENTARY INFORMATION: In 1999, the Commission issued the Safety Standard for Multi-Purpose Lighters (16 CFR part 1212) under provisions of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051–2084) to eliminate or reduce risks of death and burn injury from fires accidentally started by children playing with these lighters. The standard contains performance requirements for multi-purpose lighters that are intended to make lighters subject to the standard resist operation by children younger than five years of age.

A. Certification Requirements

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, importers, and private labelers of a consumer product subject to a consumer product safety standard to issue a certificate stating that the product complies with all applicable consumer product safety standards. Section 14(a) of the CPSA also requires that the certificate of compliance must be based on a test of each product or upon a reasonable testing program.

Section 14(b) of the CPSA authorizes the Commission to issue regulations to prescribe a reasonable testing program to support certificates of compliance with a consumer product safety standard. Section 16(b) of the CPSA (15 U.S.C. 2065(b)) authorizes the Commission to issue rules to require that firms ''establish and maintain'' records to permit the Commission to determine compliance with rules issued under the authority of the CPSA.

The Commission has issued regulations prescribing requirements for a reasonable testing program to support certificates of compliance with the standard for multi-purpose lighters. These regulations require manufacturers and importers to submit a description of each model of lighter, results of prototype qualification tests for compliance with the standard, and other information before the introduction of each model of lighter into commerce. These regulations also require manufacturers, importers, and private labelers of multi-purpose lighters to establish and maintain records to demonstrate successful completion of all required tests to support the certificates of compliance that they issue. 16 CFR part 1212, subpart B.

The Commission uses the information compiled and maintained by manufacturers, importers, and private labelers of multi-purpose lighters to protect consumers from risks of accidental deaths and burn injuries associated with those lighters. More specifically, the Commission uses this information to determine whether lighters comply with the standard by resisting operation by young children. The Commission also uses this information to obtain corrective actions if multi-purpose lighters fail to comply with the standard in a manner that creates a substantial risk of injury to the public.

OMB approved the collection of information in the certification regulations for multi-purpose lighters under control number 3041–0130. OMB's approval will expire on July 31, 2007. The Commission proposes to request an extension of approval for these collection of information requirements.

B. Estimated Burden

The cost of the rule's testing, reporting, recordkeeping, and other certification-related provisions is comprised of time spent by testing organizations on behalf of manufacturers and importers, and time spent by firms to prepare, maintain and submit records to CPSC. Currently, there are an estimated 16 firms that import, distribute and/or sell multi-purpose lighters in the United States. Most manufacturers and importers have 1 to 15 models for each firm. Based on past experience, an estimate of 2 models per firm was a reasonable number for calculating the burden. Each manufacturer would spend approximately 50 hours per model. Therefore, the total annual amount of time that will be required for complying with the testing, recordkeeping, and reporting requirements of the rule is approximately 1,600 hours. (16 firms × two models × 50 hours = 1,600 hours.) The annualized cost to industry for the 1,600 hour burden for collection of information is $71,712 at $44.82/hr based on total compensation of all civilian workers in management and professional fields in the U.S., July 2006, Bureau of Labor Statistics).

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be

minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: February 26, 2007.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E7–3628 Filed 2–28–07; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Extension of Approval of Information Collection; Comment Request—Testing and Recordkeeping Requirements Under the Standard for the Flammability of Mattresses and Mattress Pads

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed three year extension of approval of information collection requirements in the Standard for the Flammability of Mattresses and Mattress Pads. 16 CFR part 1632. The standard is intended to reduce unreasonable risks of burn injuries and deaths from fires associated with mattresses and mattress pads. The standard prescribes a test to assure that a mattress or mattress pad will resist ignition from a smoldering cigarette. The standard requires manufacturers to perform prototype tests of each combination of materials and construction methods used to produce mattresses or mattress pads and to obtain acceptable results from such testing. Manufacturers and importers are required to maintain the records and test results specified under the standard. The Office of Management and Budget (OMB) previously approved the collection of information under control number 3041–0014. OMB's most recent extension of approval will expire on August 31, 2007. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

An additional mattress standard was promulgated under section 4 of the Flammable Fabrics Act, 15 U.S.C. 1191–1204, effective July 1, 2007, to reduce deaths and injuries related to mattress fires, particularly those ignited by open flame sources such as lighters, candles and matches. 16 CFR part 1633. That standard established new performance requirements for mattresses and mattress sets that will generate a smaller size fire from open flame source ignitions. Part 1633 also contains recordkeeping requirements to document compliance with the standard. OBM approved that collection of information under Control Number 3041–0133, with an expiration date of June 30, 2009. 71 FR 37910.

In May 2006, an Interim Enforcement Policy for Mattresses subject to 16 CFR parts 1632 and 1633, effective May 1, 2006, was issued that reduced prototype surface testing and recordkeeping requirements from six mattress surfaces to two mattress surfaces for each new prototype created after March 15, 2006. That policy is available at *http://www.cpsc.gov/BUSINFO/Interimmattress.pdf*. Mattress prototypes created before March 15, 2006, are subject to the full requirements of part 1632. In addition, mattress pads are not subject to this policy and must continue to adhere to all the requirements set forth in part 1632.

DATES: Written comments must be received by the Office of the Secretary not later than April 30, 2007.

ADDRESSES: Written comments should be captioned ''Collection of Information—Mattress Flammability Standard'' and e-mailed to *cpsc-os@cpsc.gov*. Comments may also be sent by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: For information about the proposed renewal of this collection of information, or to obtain a copy of the pertinent regulations, call or write Linda L. Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; (301) 504–7671, or by e-mail to *lglatz@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

The Commission staff estimates that at this time there are 751 establishments producing mattresses, mattress pads, futons, or other types of products required to test and keep records pursuant to 16 CFR part 1632. The staff further estimates that each firm will spend 26 hours for testing and recordkeeping annually for a total of 19,526 hours (751 firms × 26 hours = 19,526 total hours). The annualized cost would be $875,000 based on 19,526 hours times $44.82/hour (based on total compensation of all civilian workers in managerial and professional positions in the U.S., July 2006, Bureau of Labor Statistics).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: February 26, 2007.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E7–3629 Filed 2–28–07; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Reading First Advisory Committee; Notice of Establishment

AGENCY: Department of Education, Office of Elementary and Secondary Education.

ACTION: Notice of Establishment of the Reading First Advisory Committee.

SUMMARY: The Secretary announces her intention to establish the Reading First Advisory Committee. The Federal Advisory Committee Act (FACA) (Pub. L. 92–463 as amended; 5 U.S.C. Appendix 2) will govern the Committee.

Purpose: Sections 1203(c)(2)(A) and 1202(e)(2) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) authorize the Secretary of Education to establish a panel to evaluate State Reading First applications and to review third-year progress reports submitted by States under the Reading First program. The activities of the panel (hereinafter referred to as the ''Committee'') will be governed by FACA.

States submitted their Reading First applications to the Department in 2002 and 2003. Currently, the Department has approved the Reading First applications of all applicants but one. The Committee will evaluate this remaining application and, at the request of the Department, may review issues identified in other State applications.

States submitted their third-year progress reports to the Department on or before November 30, 2006. The reports include, among other things, information on the progress State educational agencies and local educational agencies are making in reducing the number of students served under the Reading First program in grades 1, 2, and 3 who are reading below grade level. By statute, the Committee will review these reports. In addition, the Committee may advise the Secretary on other issues that the Secretary deems appropriate.

By statute, the Committee will consist, at a minimum, of three individuals selected by each of the following: the Secretary of Education, the National Institute for Literacy, the National Research Council of the National Academy of Sciences, and the National Institute of Child Health and Human Development.

Any non-Federal members of the Committee will serve as Special Government Employees (SGEs). Committee members will serve for a period of three years or until the date of reauthorization of the ESEA, whichever is earlier. The Committee will choose one of its members to serve as the chairperson. The Team Leader of the Reading First program will serve as the Designated Federal Officer (DFO) for the Committee. As appropriate, the Committee may form one or more subcommittees to assist it with its functions.

For Additional Information: Contact Maria Worthen, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202, Telephone: (202) 205–5632.

Dated: February 23, 2007.

Margaret Spellings,

Secretary of Education.

[FR Doc. E7–3590 Filed 2–28–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA NO. 84.361A]

Office of Innovation and Improvement, Voluntary Public School Choice Program

ACTION: Notice announcing a technical assistance workshop.

SUMMARY: This notice provides information about a technical assistance workshop the Department will be holding to assist eligible applicants interested in preparing grant applications for fiscal year (FY) 2007 new awards under the Voluntary Public School Choice (VPSC) program. Staff will present information about the purpose of the VPSC program, selection criteria, application content, submission procedures, and reporting requirements.

The notice inviting applications for new awards for FY 2007 for the VPSC program was published in the **Federal Register** on February 1, 2007 (72 FR 4700).

FOR FURTHER INFORMATION CONTACT: Iris A. Lane, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–5970. *Telephone:* (202) 205–1999. *E-mail: vpsc@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audio tape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION: The technical assistance workshop will be conducted on Tuesday, March 6, 2007, from 9 a.m.–12 p.m. at the Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024. *Hotel telephone:* (202) 479–4000. This site is in Washington, DC, across the street from the U.S. Department of Education headquarters at 400 Maryland Avenue, SW. This site is accessible by Metro on the Blue, Orange, Green, and Yellow lines at the 7th Street and Maryland Avenue exit of the L'Enfant Plaza station. Please contact the U.S. Department of Education contact person listed under **FOR FURTHER INFORMATION CONTACT** if you have any questions about the details of the workshop.

Individuals interested in attending this workshop are encouraged to pre-register by e-mailing their name, organization, and contact information to *vpsc@ed.gov*. There is no registration fee for this workshop. We encourage attendance from those who will be responsible for submitting program applications or providing technical support for submission of program applications.

Assistance to Individuals With Disabilities Attending the Technical Assistance Workshop

The technical assistance workshop site is accessible to individuals with disabilities. If you need an auxiliary aid or service to participate in the workshop (e.g., interpreting service, assistive listening device, or materials in an alternative format), notify the contact persons listed under **FOR FURTHER INFORMATON CONTACT**.

Electronic Access to This Document

You may view this document, as well as other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have any questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Program Authority: 20 U.S.C. 7225–7225g.

Dated: February 23, 2007.

Morgan S. Brown,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. E7–3613 Filed 2–28–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; American Indian Tribally Controlled Colleges and Universities, Alaska Native-Serving Institutions, and Native Hawaiian-Serving Institutions programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.031T, 84.031N and 84.031W.

Dates:

Applications Available: March 1, 2007.

Deadline for Transmittal of Applications: April 16, 2007.

Deadline for Intergovernmental Review: June 14, 2007.

Eligible Applicants: Institutions of higher education (IHEs) that qualify as eligible institutions under the American Indian Tribally Controlled Colleges and Universities (TCCU), the Alaska Native-Serving Institutions (AN), and the Native Hawaiian-Serving Institutions (NH) programs may apply for grants under this notice. These programs are authorized by Title III, Part A of the Higher Education Act of 1965, as amended (HEA). To qualify as an eligible institution under any Title III, Part A program, an institution must, among other requirements—

(1) Be accredited or preaccredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(2) Be legally authorized by the State in which it is located to be a junior college or to provide an educational program for which it awards a bachelor's degree;

(3) Be designated as an ''eligible institution'' by demonstrating that it: (A) Has an enrollment of needy students as described in 34 CFR 607.3; and (B) has low average educational and general expenditures per full-time equivalent (FTE) undergraduate student as described in 34 CFR 607.4.

The Notice Inviting Applications for Designation as Eligible Institutions for FY 2007 was published in the **Federal Register** on January 8, 2007, 72 FR 760. The complete eligibility requirements for the Title III, Part A programs are in 34 CFR 607.2 through 607.5 and can be accessed from the following Web site: *http://www.access.gpo.gov/nara/cfr/waisidx_05/34cfr607_05.html.*

Relationship Between the Title III, Part A Programs and the Hispanic-Serving Institutions (HSI) Program

Note 1: A grantee under the Developing Hispanic-Serving Institutions (HSI) program, which is authorized under Title V of the HEA, may not receive a grant under any HEA, Title III, Part A programs. The Title III, Part A programs include: The Strengthening Institutions Program (SIP), the TCCU program, and the AN and NH programs. Further, a current HSI program grantee may not give up its HSI grant in order to receive a grant under any Title III, Part A program.

Note 2: An eligible HSI that does not fall within the limitation described in Note 1, i.e., is not a current grantee under the HSI program, may apply for a FY 2007 grant under all Title III, Part A programs for which it is eligible, as well as under the HSI program. However, a successful applicant may receive only one grant.

Note 3: An eligible IHE that submits more than one application may only be awarded one individual development grant *or* one cooperative arrangement development grant in a fiscal year. Furthermore, we will not award a second cooperative arrangement development grant to an otherwise eligible IHE for the same award year as the IHE's existing cooperative arrangement development grant award.

Note 4: The Department will make five-year awards for Individual Development Grants and five-year awards for Cooperative Development Grants in rank order from separate funding slates according to the average score received from a panel of three readers.

However, the Department will use two funding slates each for the one-year construction grants under the TCCU program and the one-year renovations grants under the AN and NH programs. Slate number one will contain the rank order scores of applicants that did not receive a grant under the respective program in FY 2006. Slate number two will contain the rank order scores of all remaining applicants. Awards under the TCCU, AN and NH programs will be made first in rank order from slate number one of the respective program. If funds remain after awarding all approved applicants from slate number one, the remaining awards will be made in rank order from slate number two of the respective program. The Department has adopted this process for the construction and renovation grants to comply with Section 313(b) of the HEA, which directs the Secretary to give priority to applicants who are not currently receiving a grant.

Estimated Available Funds: $23,570,000 for the TCCU program and $11,785,000 for the AN and NH program's for FY 2007. A competition will not be held in FY 2007 for the SIP. Instead, the Department intends to use the grant slate developed for the SIP in FY 2006 to make new awards in FY 2007 because a significant number of high-quality applicants remained on the FY 2006 slate and limited funding is expected to be available for new awards in FY 2007.

For specific funding information, see the chart in the Award Information section of this notice.

Estimated Average Size of Awards: See chart.

Maximum Award Amounts: See chart. We will not fund any application at an amount exceeding the maximum amounts specified in the chart for a single budget period of 12 months. We may choose not to further consider or review applications with budgets that exceed the maximum amounts specified, if we conclude, during our initial review of the application, that the proposed goals and objectives cannot be obtained with the specified maximum amount.

Estimated Number of Awards: See chart.

Program name and type of award	Maximum award amount	Estimated number of awards	Estimated average award amount
Tribally Controlled Colleges and Universities program (84.031T)			
—5-year individual development grants	$475,000	2	$450,000
—1-year construction grants	1,650,000	7	1,577,000
Alaska Native and Native Hawaiian programs (84.031N and 84.031W)			
—5-year individual development grants	500,000	1	500,000
—1-year renovation grants	750,000	4	710,000

Note: The Department is not bound by any estimates in this notice. Applicants should periodically check the Title III Part A programs Web site for further information. The address is: *http://www.ed.gov/programs/iduestitle3a/index.html.*

Project Period: Up to 60 months for development grants and up to 12 months for construction and renovation grants.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The TCCU, AN, and NH programs provide grants to eligible institutions of higher education to enable them to improve their academic quality, institutional

management, and fiscal stability, and increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

Program Authority: 20 U.S.C. 1057–1059d.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR part 607.

II. Award Information

Type of Awards: Discretionary grants. Five-year individual development grants; five-year cooperative arrangement development grants; one-year TCCU construction grants, and one-year AN and NH renovation grants will be awarded in FY 2007. Planning grants will not be awarded in FY 2007.

Estimated Available Funds: $23,570,000 for the TCCU program and $11,785,000 for the AN and NH programs for FY 2007.

A competition will not be held in FY 2007 for the SIP. Instead, the Department intends to use the grant slate developed for the SIP in FY 2006 to make new awards in FY 2007 because a significant number of high-quality applicants remained on the FY 2006 slate and limited funding is expected to be available for new awards in FY 2007.

For specific funding information, see the chart in the Award Information section of this notice.

Estimated Average Size of Awards: See chart.

Maximum Award Amounts: See chart.

We will not fund any application at an amount exceeding the maximum amounts specified in this notice for a single budget period of 12 months. We may choose not to further consider or review applications with budgets that exceed the maximum amounts specified, if we conclude, during our initial review of the application, that the proposed goals and objectives cannot be obtained with the specified maximum amount.

Estimated Number of Awards: See chart.

Program name and type of award	Maximum award amount	Estimated number of awards	Estimated average award amount
Tribally Controlled Colleges and Universities Program (84.031T)			
—5-year individual development grants	$475,000	2	$450,000
—1-year construction grants	1,650,000	7	1,577,000
Alaska Native and Native Hawaiian program (84.031N and 84.031W)			
—5-year individual development grants	500,000	1	500,000
—1-year renovation grants	750,000	4	710,000

Note: The Department is not bound by any estimates in this notice. Applicants should periodically check the Title III Part A programs Web site for further information. The address is: *http://www.ed.gov/programs/iduestitle3a/index.html.*

Project Period: Up to 60 months for development and up to 12 months for construction and renovation grants.

III. Eligibility Information

1. *Eligible Applicants:* IHEs that qualify as eligible institutions under the TCCU, AN and the NH programs may apply for grants under this notice. These programs are authorized by Title III, Part A, of the HEA. To qualify as an eligible institution under any Title III, Part A program, an institution must, among other requirements—

(1) Be accredited or preaccredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(2) Be legally authorized by the State in which it is located to be a junior college or to provide an educational program for which it awards a bachelor's degree;

(3) Be designated as an ''eligible institution'' by demonstrating that it: (A) Has an enrollment of needy students as described in 34 CFR 607.3; and (B) has low average educational and general expenditures per full-time equivalent (FTE) undergraduate student as described in 34 CFR 607.4.

The Notice Inviting Applications for Designation as Eligible Institutions for FY 2007 was published in the **Federal Register** on January 8, 2007, 72 FR 760. The complete eligibility requirements are in 34 CFR 607.2 through 607.5 and can be accessed from the following Web site: *http://www.access.gpo.gov/nara/cfr/waisidx_05/34cfr607_05.html.*

Relationship Between the Title III, Part A Programs and the Hispanic-Serving Institutions (HSI) Program

Note 1: A grantee under the HSI program, which is authorized under Title V of the HEA, may not receive a grant under any HEA, Title III, Part A program. The Title III, Part A programs include: the SIP program, the TCCU program, and the AN, and NH programs. Further, a current HSI program grantee may not give up its HSI grant in order to receive a grant under any Title III, Part A program.

Note 2: An eligible HSI that does not fall within the limitation described in Note 1, *i.e.*, is not a current grantee under the HSI program, may apply for a FY 2007 grant under all Title III, Part A programs for which it is eligible, as well as under the HSI program. However, a successful applicant may receive only one grant.

Note 3: An eligible IHE that submits more than one application may only be awarded one individual development grant *or* one cooperative arrangement development grant in a fiscal year. Furthermore, we will not award a second cooperative arrangement development grant to an otherwise eligible institution for the same award year as the IHE's existing cooperative arrangement development grant award.

Note 4: The Department will make five-year awards for Individual Development Grants and five-year awards for Cooperative Development Grants in rank order from separate funding slates according to the average score received from a panel of three readers.

However, the Department will use two funding slates each for the one-year construction grants under the TCCU program and the one-year renovations grants under the AN and NH programs. Slate number one will contain the rank order scores of applicants that did not receive a grant under the respective program in FY 2006. Slate number two will contain the rank order scores of all remaining applicants. Awards under the TCCU, AN and NH programs will be made first in rank order from slate number one of the respective program. If funds remain after awarding all approved applicants from slate number one, the remaining awards will be made in rank order from slate number two of the respective program. The Department has adopted this process for the construction and renovation grants to comply with Section 313(b) of the HEA, which directs the Secretary to give

priority to applicants who are not currently receiving a grant.

2. *Cost Sharing or Matching:* There are no cost sharing or matching requirements, unless the grantee uses a portion of its grant for establishing or improving an endowment fund. If a grantee uses a portion of its grant for endowment fund purposes, it must match those grant funds with non-Federal funds. 20 U.S.C. 1057(d)(2) and 1059c(c)(3)(B).

IV. Application and Submission Information

1. *Address to Request Application Package:* Darlene Collins, Team Leader, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8513. Telephone: (202) 502–7576 or by e-mail: *darlene.collins@ed.gov*; or Kelley Harris, Telephone: (202) 219–7083 or by e-mail: *kelley.harris@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for these programs.

Page Limits: We have established mandatory page limits for the applications to be submitted under this notice. You must limit your application to the equivalent of no more than 50 pages for an individual development grant; 70 pages for a cooperative arrangement development grant; and 35 pages for a TCCU construction or AN and NH renovation grant under the Title III, Part A programs, using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1 inch margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margin.

• Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, captions and all text in charts, tables, and graphs.

• Use one of the following fonts: Times New Roman, Courier, Courier New or Arial. Applications submitted in any other font (including Times Roman and Arial Narrow) will be rejected.

• Use not less than 12-point font.

The page limit does not apply to Part I, the Application for Federal Assistance Face Sheet (SF 424); the Supplemental Information for SF 424 form required by the Department of Education; Part II, the Budget Information Summary Form (ED Form 524); and Part IV, the Assurances and Certifications. The page limit also does not apply to a Table of Contents and the Program Abstract. If you include any attachments or appendices, these items will be counted as part of the Program Narrative (Part III of the application) for purposes of the page limit requirement. You must include your complete response to the selection criteria in the program narrative.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: March 1, 2007.

Deadline for Transmittal of Applications: April 16, 2007.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: June 14, 2007.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for these programs.

5. *Funding Restrictions:* We reference the regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

• *Applicability of Executive Order 13202.*

Applicants that apply for construction funds under the Title III, Part A Programs must comply with Executive Order 13202 signed by President George W. Bush on February 17, 2001 and amended on April 6, 2001. This Executive order provides that recipients of Federal construction funds may not ''require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other construction project(s)'' or ''otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations, on the same or other construction project(s).'' However, the Executive order does not prohibit contractors or subcontractors from voluntarily entering into these agreements. Projects funded under these programs that include construction activity will be provided a copy of this Executive order and will be asked to certify that they will adhere to it.

6. *Other Submission Requirements:* Applications for grants under these programs must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.* Applications for grants under the TCCU, AN and NH programs (CFDA Numbers 84.031T, 84.031N and 84.031W) must be submitted electronically using the Grants.gov Apply site at: *http://www.grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding the calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the TCCU, AN and NH programs at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.031, not 84.031W).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted, and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf*.

• To submit your application via Grants.gov, you must complete all of the steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp)*. These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf)*. You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information typically provided on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information form SF 424—have replaced the ED 424 (Application for Federal Education Assistance.)

• You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department will then retrieve your application from Grants.gov and send a second confirmation to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk at 1–800–518–4726. You may obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer to in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax

your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Darlene Collins, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8513 Telephone: (202) 502–7576 or by e-mail: *darlene.collins@ed.gov;* FAX: (202) 502–7861 or Kelley Harris, Telephone: (202) 219–7083 or by e-mail: *kelley.harris@ed.gov*.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application on or before the application deadline date to the Department at the applicable following address:

By mail through the U.S. Postal Service:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031T, 84.031N or 84.031W), 400 Maryland Avenue, SW., Washington, DC 20202–4260.

or

By mail through a commercial carrier:

U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.031T, 84.031N or 84.031W), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031T, 84.031N or 84.031W), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number,—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are in 34 CFR 607.22(a)–(g). Applicants must address each of the following selection criteria (separately for each proposed activity). The total weight of the selection criteria is 100 points; the weight of each criterion is noted in parentheses.

(a) Quality of The Applicant's Comprehensive Development Plan (Total 25 Points).

(b) Quality of Activity Objectives (Total 15 Points).

(c) Quality of Implementation Strategy (Total 20 Points).

(d) Quality of Key Personnel (Total 7 Points).

(e) Quality of Project Management Plan (Total 10 Points).

(f) Quality of Evaluation Plan (Total 15 Points).

(g) Budget (Total 8 Points).

2. *Review and Selection Process:* For five-year individual development grants, five-year cooperative arrangement development grants, and one-year construction and renovation grants, awards will be made in rank order according to the average score received from a panel of three readers.

Tie-breaker for Development Grants. In tie-breaking situations for development grants described in 34 CFR 607.23(b), the regulations for the Title III Part A programs require that we award one additional point to an application from an IHE that has an endowment fund for which the market value per FTE student is less than the comparable average per FTE student at a similar type IHE. We also award one additional point to an application from an IHE that had expenditures for library materials per FTE student that are less than the comparable average per FTE student at a similar type IHE.

For the purpose of these funding considerations, we use 2004–2005 data.

If a tie remains after applying the tie-breaker mechanism above, priority will be given in the case of applicants for: (a) Individual development grants to applicants that have the lowest endowment values per FTE student; and (b) cooperative arrangement development grants to applicants in accordance with section 394(b) of the HEA, if the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the

most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118, 34 CFR 75.720 and in 34 CFR 606.31.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the Title III, Part A programs: (1) The number of full-time degree-seeking undergraduates enrolling at IHEs. Note that this is a long-term measure, which will be used to periodically gauge performance, beginning in FY 2009; (2) The percentage of full-time undergraduate students who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same institution; (3) The percentage of students enrolled at 4-year IHEs graduating within 6 years of enrollment; and (4) The percentage of students enrolled at 2-year IHEs graduating within 3 years of enrollment.

VII. Agency Contacts

For Further Information Contact: Darlene Collins, Team Leader, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8513. Telephone: (202) 502–7576 or by e-mail: *darlene.collins.ed.gov* or Kelley Harris, telephone: (202) 219–7083 or by e-mail: *Kelley.harris@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: February 23, 2007.

James F. Manning,

Delegated the Authority of Assistant Secretary for Postsecondary Education.

[FR Doc. E7–3612 Filed 2–28–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Study of the Potential Benefits of Distributed Generation and Rate-Related Issues That May Impede Their Expansion

AGENCY: Office of Electricity Delivery and Energy Reliability (OE), Department of Energy.

ACTION: Notice of availability of a study of the potential benefits of distributed generation and rate-related issues that may impede their expansion, and request for public comment.

SUMMARY: The Department of Energy (DOE) hereby gives notice that it has issued a ''Study of the Potential Benefits of Distributed Generation and Rate-Related Issues That May Impede Their Expansion'' (DG Study). The DG Study is an analysis called for by Section 1817 of the Energy Policy Act of 2005 (EPAct 2005). Through this Notice, DOE invites public review of the DG Study and submittal of comments on it. DOE requests that comments be submitted electronically (preferably Microsoft® Word .doc format), although written comments may be submitted as well. Submissions should include a cover page containing the reviewer's name, affiliation, telephone number, mailing address, and e-mail address.

Copies of Section 1817 of EPAct 2005 and of the DG Study are available and may be downloaded from the OE Web site: *http://www.oe.energy.gov.*

DATES: Comments, and other pertinent information offered in response to this Notice must be submitted to and received by DOE no later than April 2, 2007 at any of the addresses listed in the **ADDRESSES** section.

ADDRESSES: Reviews prepared in electronic formats may be uploaded directly, via the Internet at: *http://www.oe.energy.gov/epa_sec1817.htm.* Links to this Web page may also be found on the OE Web site.

Comments may also be sent by regular mail to: Mario Sciulli, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, MS 922–342C, Pittsburgh, PA 15236; or by e-mail to: *mario.sciulli@netl.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mario Sciulli, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, MS 922–342C, Pittsburgh, PA 15236, e-mail address: *mario.sciulli@netl.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 1817 of the Energy Policy Act of 2005 requires that DOE, in consultation with the Federal Energy Regulatory Commission (FERC), conduct a study of the potential benefits of cogeneration and small power production. DOE also must analyze the impact of regulatory mandates, tariffs, rate structures and similar policies on the proliferation of distributed energy technologies. Section 1817 further requires that DOE recommend a methodology for valuing the benefits of distributed generation (DG).

To initiate the DG Study DOE published a ''notice of inquiry and request for public comment'' in the **Federal Register** on January 30, 2006 (71 FR 4904). The notice requested public input (such as narratives of experiences, data, case studies, reports and results of analyses, etc.) pertaining to the planning, installation, commissioning and operation of distributed energy systems. The notice also invited interested parties to submit case studies and similar information depicting the impact of regulations, statutes, codes, tariffs, rate structures and other similar policies on the various aspects of DG, combined heat and power (CHP) systems, and related distributed energy technologies. A copy of the January 30, 2006 notice is available on the OE Web page.

II. DG Study, Request for Public Review and Comment, and Report

A. DG Study

DOE has considered and analyzed comments and supporting information received in response to the notice of January 30, 2006, and has completed a DG Study. DOE is hereby announcing that the DG Study is available for public review and inviting all interested parties to submit comments on the DG Study.

B. Submission of Comments

In accordance with Section 1817, DOE requests written comments from interested parties on all aspects of the DG Study. DOE is especially interested in receiving comments from persons with particular knowledge of the legal, economic and technical elements related to the benefits and rate-related issues concerning distributed generation.

C. Report

At the end of the public review period specified in the **DATES** section of this

Notice, DOE will issue a report describing the results of the DG Study and a summary of public comments received. The study may be revised to reflect comments as appropriate. The Secretary of Energy will present the report to the President and Congress. The DG Study report will be released for public distribution shortly thereafter.

The DG Study is available for public inspection at the Department of Energy, Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585 between the hours of 9 a.m. and 4 p.m. Monday through Friday, except for holidays. The report, upon its completion and submission to the President and Congress, will be available at DOE's Freedom of Information Reading Room and at the OE Web site.

Issued in Washington, DC on February 26, 2007.

Kevin M. Kolevar,

Director, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E7–3565 Filed 2–28–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–175–000]

Alliance Pipeline L.P.; Notice of Proposed Change in FERC Gas Tariff

February 23, 2007.

Take notice that on February 20, 2007, Alliance Pipeline L.P. (Alliance) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective March 12, 2007:

First Revised Sheet No. 256.
Original Sheet No. 256A.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3601 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–180–000]

Canyon Creek Compression Company; Notice of Penalty Revenue Crediting Report

February 23, 2007.

Take notice that on February 20, 2007, Canyon Creek Compression Company (Canyon) tendered for filing its penalty revenue crediting report for the calendar year 2006 pursuant to section 36 of the general terms and conditions of its FERC Gas Tariff.

Canyon states that copies of the filing are being mailed to its customers and interested State commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 2, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3606 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–86–000]

CenterPoint Energy Gas Transmission Company; Notice of Application

February 23, 2007.

Take notice that on February 20, 2007, CenterPoint Energy Gas Transmission Company (CEGT), 1111 Louisiana Street, Houston, Texas 77002–5231, filed in Docket No. CP07–86–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), to abandon its Line ADT–111 located in Oklahoma by sell to CenterPoint Energy Field Services, Inc. In conjunction with the abandonment, CEGT seeks a determination that the line is a gathering facility exempt from the Commission's jurisdiction under NGA Section 1(b), all as more fully set forth in the application which is on file with

the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Lawrence O. Thomas, Director-Rates & Regulatory at CenterPoint Energy Gas Transmission Co., P.O. Box 21734, Shreveport, Louisiana 71151, or by calling (318) 429–2804.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments protests and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1) (iii) and the instructions on the Commission's Web (*http://www.ferc.gov*) site under the ''e-Filing'' link.

Comment Date: March 16, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3593 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–125–001]

Columbia Gulf Transmission Company; Notice of Compliance Filing

February 23, 2007.

Take notice that on February 21, 2007, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 289, to be effective February 1, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3598 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–174–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

February 23, 2007.

Take notice that on February 16, 2007, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of June 1, 2007:

Eighth Revised Sheet No. 216.
Original Sheet No. 216A.

Original Sheet No. 216B.
Original Sheet No. 216C.
Fifth Revised Sheet No. 217.
First Revised Sheet No. 218.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3600 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC07–64–000]

Energy West Development, Inc.; Notice of Filing

February 23, 2007.

Take notice that on February 14, 2007, Energy West Development Inc., submitted a request for a waiver of its requirement to submit a report of certification (CPA Certification Statement) of its 2005 FERC Form No. 2–A. The CPA Certification statement is required under section 158.11 of the Commission's regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: March 16, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3608 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–179–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes in FERC Gas Tariff

February 23, 2007.

Take notice that on February 20, 2007, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective April 1, 2007:

Sixth Revised Sheet No. 102.
Third Revised Sheet No. 304.
Third Revised Sheet No. 4100.
Third Revised Sheet No. 4300.
Second Revised Sheet No. 4752.
Second Revised Sheet No. 4757.
Original Sheet No. 4764.
Original Sheet No. 4765.
Original Sheet No. 4766.
Original Sheet No. 4767.
Original Sheet No. 4768.
Original Sheet No. 4769.
Original Sheet No. 4770.
Original Sheet No. 4771.
Original Sheet No. 4772.
Original Sheet No. 4773.
Original Sheet No. 4774.
Original Sheet No. 4775.
Sheet Nos. 4776–4799.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3605 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–127]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

February 23, 2007.

Take notice that on February 16, 2007, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective April 1, 2007, and the related Transportation Rate Schedule FTS Agreement with a Negotiated Rate Exhibit (Agreement).

Second Revised Sheet No. 26W.12.
Original Sheet No. 414A.05.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3592 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–177–000]

Paiute Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 23, 2007.

Take notice that on February 20, 2007, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, Fourteenth Revised Sheet No. 161, to become effective March 1, 2007.

Paiute states that copies of the filing are being served upon all of Paiute's customers and interested State regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3603 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–336–003]

Pine Needle LNG Company, LLC; Notice of Filing

February 23, 2007.

Take notice that on February 16, 2007 Pine Needle LNG Company, LLC (Pine Needle) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twelfth Revised Sheet No. 4, with an effective date of March 1, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3597 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–488–000]

Southern California Edison Company; Notice Extending Comment Period

February 23, 2007.

On February 20, 2007, the Commission issued a ''Notice of Filing'' in the above-captioned proceeding. *Combined Notice of Filings #2,* February 20, 2007. By this notice the comment period has been extended to and including March 5, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3594 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–163]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Amendment

February 23, 2007.

Take notice that on February 20, 2007, Tennessee Gas Pipeline Company, (Tennessee) tendered for filing an amendment to a negotiated rate Gas Transportation Agreement, dated December 15, 1997, between Tennessee and Distrigas of Massachusetts Corporation pursuant to Tennessee's Rate Schedule FT–A (Negotiated Rate Amendment). Tennessee requests the Negotiated Rate Amendment to be effective on January 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3607 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–176–000]

Trailblazer Pipeline Company; Notice of Revenue Crediting Report

February 23, 2007.

Take notice that on February 20, 2007, Trailblazer Pipeline Company (Trailblazer) tendered for filing its Penalty Revenue Report.

Trailblazer states the purpose of this filing is to inform the Commission that Trailblazer collected no penalty revenues in the quarter ended December 31, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time March 2, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3602 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–178–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 23, 2007.

Take notice that on February 20, 2007, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Ninth Revised Sheet No. 250A, Original Sheet No. 374V, and Original Sheet No. 374V.01, to become effective March 22, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3604 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–173–000]

Viking Gas Transmission Company; Notice of Tariff Filing

February 23, 2007.

Take notice that on February 16, 2007, Viking Gas Transmission Company (Viking) tendered for filing to be part of its FERC Gas Tariff, First Revised Volume No. 1, Nineteenth Revised Sheet No. 5B, to become effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3599 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12486–001]

Twin Lakes Canal Company; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

February 23, 2007.

a. *Type of Filing:* Notice of Intent to File License Application for an original License and Pre-Application Document.

b. *Project No.:* 12486–001.

c. *Dated Filed:* December 15, 2006.

d. *Submitted by:* Twin Lakes Canal Company.

e. *Name of Project:* Bear River Narrows Hydroelectric Project.

f. *Location:* The proposed Bear River Narrows Hydroelectric Project would be located in Southeastern Idaho on the Bear River. The project would be located entirely within Franklin County approximately nine miles Northeast of Preston, Idaho.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Nick Josten, Project Engineer, GeoSense, 2742 Saint Charles Ave, Idaho Falls, ID 83404, (208) 528–6152.

i. *FERC Contact:* Shana Murray (202) 502–8333 or via e-mail at *shana.murray@ferc.gov.*

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph n below.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations there under at 50 CFR part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Twin Lakes Canal Company filed a Pre-Application Document (PAD); including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. Copies of the PAD and Scoping Document 1 (SD1) are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph n.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. With this notice, we are soliciting comments on the PAD and SD1 as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Bear River Narrows Hydroelectric Project) and number (P–12486–001), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by April 14, 2007.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

o. At this time, Commission staff intends to prepare an Environmental Assessment for the project, in accordance with the National Environmental Policy Act. However, there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, the scoping meetings will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

We will hold a daytime and night time scoping meeting at the times and places noted below. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The time and location of these meetings are as follows:

Date and Time: Wednesday, March 14, 2007, 1 p.m. (MST).

Location: Fairgrounds, Robinson Building, 146 West 2nd Street North, Preston, Idaho 83263.

Date and Time: Wednesday, March 14, 2007, 7 p.m. (MST).

Location: Fairgrounds, Robinson Building, 146 West 2nd Street North, Preston, Idaho 83263.

For Directions: Please call Clair Bosen, of Twin Lakes Canal Company at (208) 852–1612.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, has been mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov*, using the ''eLibrary'' link. Follow the directions for accessing information in paragraph p. Depending on the extent of comments received, a Scoping Document 2 (SD2) may or may not be issued.

Site Visit

The potential applicant and Commission staff will conduct a site visit of the proposed project on Tuesday, March 13, 2007, starting at 10 a.m. All participants should meet at the Twin Lakes Canal Company, located at 2 North State Street, Preston, Idaho 83263. All participants are responsible for their own transportation. Anyone with questions about the site visit should contact Mr. Clair Bosen at (208) 852–1612 on or before March 13, 2007.

Scoping Meeting Objectives

At the scoping meeting, staff will: (1) Present the proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and potential study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of Federal, State, and tribal permitting and certification processes; and (5) discuss requests by any Federal or State agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the Pre-Application Document in preparation for the scoping meeting. Directions on how to obtain a copy of the PAD and SD1 are included in item m of this document.

Scoping Meeting Procedures

The scoping meeting will be recorded by a stenographer and will become part of the formal Commission record on the project.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3595 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

February 23, 2007.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt

of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Date received	Presenter or requester
Prohibited:		
1. CP06–54–000	2–13–07	Grace Vander Voot.
2. CP06–54–000	2–14–07	Jeffrey M. Coffey and Georgia Coffey.
Exempt:		
1. CP06–54–000	1–23–07	Hon. Christopher Dodd. Hon. Joseph I. Lieberman. Hon. Rosa L. DeLauro. Hon. Christopher Shays. Hon. John Larson. Hon. Christopher Murphy. Hon. Joseph Courtney.
2. CP06–54–000	2–20–07	Hon. Hillary Rodham Clinton.
3. CP06–115–000	2–20–07	David Hanobic.
4. CP06–421–000	2–21–07	Hon. Frank R. Wolf.
5. CP07–51–000	2–20–07	James Martin.
6. Project No. 1971–079	2–12–07	Alan Mitchnick.
7. Project No. 1971–079	2–21–07	Alan Mitchnick.
8. Project No. 2197–073	2–12–07	Todd Ewing.
9. Project No. 2206–030	2–20–07	Danny Johnson.
Project No. 2197–073		
10. Project No. 2216–000	2–20–07	Hon. Charles E. Schumer. Hon. Hillary Rodham Clinton. Hon. Louise M. Slaughter. Hon. Thomas M. Reynolds.
11. Project No. 2539–000	1–23–07	Hon. Charles E. Schumer. Hon. Michael R. McNulty.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3596 Filed 2–28–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2007–0022, FRL–8282–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Reporting and Recordkeeping Requirements Under EPA's WasteWise Program, EPA ICR Number 1698.07, OMB Control Number 2050–0139

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request for an existing approved collection. This ICR is scheduled to expire on April 30, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 30, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–RCRA–2007–0022, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: rcra-docket@epa.gov.*
- *Fax:* 202–566–0272.
- *Mail:* RCRA Docket (5305T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* 1301 Constitution Ave., NW., Room 3334, Washington, DC 20460. 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–RCRA–2007–0022. 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 *http://www.regulations.gov* or e-mail. The *http://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 *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment 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: Charles Heizenroth, Office of Solid Waste, 5306P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (703) 308–0154; *fax number:* (703) 308–8686; *e-mail address: heizenroth.charles@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2007–0022, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for RCRA Docket is (202) 566–0270.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are businesses, not-for-profit, and State, Local, or Tribal governments.

Title: Reporting and Recordkeeping Requirements Under EPA's WasteWise Program

ICR numbers: EPA ICR No. 1698.07, OMB Control No. 2050–0139.

ICR status: This ICR is currently scheduled to expire on April 30, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA's voluntary WasteWise program encourages businesses and other organizations to reduce solid waste through waste prevention, recycling, and the purchase or manufacture of recycled-content products. WasteWise participants include partners, who commit to implementing waste reduction activities of their choice, and endorsers who

promote the WasteWise program and waste reduction to their members.

The Partner Registration Form identifies an organization and its facilities registering to participate in WasteWise, and requires the signature of a senior official that can commit the organization to the program. (This form can be submitted either electronically or in hard copy.) Within six months of registering, each partner is asked to conduct a waste assessment and submit baseline data and waste reduction goals to EPA via the Annual Assessment Form. (This form can also be submitted either electronically or in hard copy.) On an annual basis partners are asked to report, via the Annual Assessment Form, on their progress toward achieving their waste reduction goals by estimating amounts of waste prevented and recyclables collected, and describing buying or manufacturing recycled-content products. Partners can also provide WasteWise with information on total waste prevention revenue, total recycling revenue, total avoided purchasing costs due to waste prevention, and total avoided disposal costs due to recycling and waste prevention. Additionally, they are asked to submit new waste reduction goals.

Endorsers, who are typically trade associations or state/local governments, submit the Endorser Registration Form once during their endorser relationship with WasteWise. (This form can be submitted either electronically or in hard copy.) The Endorser Registration Form identifies the organization, the principal contact, and the activities to which the Endorser commits.

EPA's WasteWise program uses the submitted information to (1) identify and recognize outstanding waste reduction achievements by individual organizations, (2) compile aggregate results that indicate overall accomplishments of WasteWise partners, (3) identify cost-effective waste reduction strategies to share with other organizations, and (4) identify topics on which to develop assistance and information efforts.

Burden Statement: The respondent burden for this collection is estimated to average 1 hour per response for the Partner Registration Form, 40 hours per response for the Annual Assessment Form, and 10 hours per response for the Endorser Registration Form. This results in an estimated annual partner respondent burden of 41 hours for new partners, 40 hours for established partners, and a one-time respondent burden of 10 hours for endorsers.

The estimated number of respondents is 1,675 in Year 1; 1,775 in Year 2; and 1,875 in Year 3. Estimated total annual burden on all respondents is 66,350 hours in Year 1; 70,350 hours in Year 2; and 74,350 hours in Year 3.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 1,525.

Frequency of response: Annually.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 56,700.

Estimated total annual costs: $0. This includes an estimated burden cost of $0 and an estimated cost of $0 for capital investment or maintenance and operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: February 2, 2007.

Matthew Hale,

Director, Office of Solid Waste.

[FR Doc. E7–3588 Filed 2–28–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2007–0142; FRL–8282–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information Collection Request for Cooling Water Intake Structure Phase II Existing Facilities, EPA ICR No. 2060.03, OMB Control No. 2040–0257

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 30, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OW–2007–0142, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: ow–docket@epa.gov* (Identify Docket ID number EPA–HQ–OW–2007–0142, in the subject line)
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of three copies.
- *Hand Delivery:* EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, 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 identified by the Docket ID number EPA–HQ–OW–2007–0142. 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 *http://www.regulations.gov* or e-mail. The *http://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: Amelia Letnes, State and Regional Branch, Water Permits Division, OWM Mail Code: 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–5627; e-mail address: *letnes.amelia@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for the ICR identified in this document (ID number EPA–HQ–OW–2007–0142), which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of technical information/data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES.**

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action include existing electric power generating facilities meeting the applicability criteria of the 316(b) Phase II Existing Facility rule at 40 CFR 125.91.

Title: Information Collection Request for Cooling Water Intake Structure Phase II Existing Facilities.

ICR numbers: EPA ICR No. 2060.03, OMB Control No. 2040–0257.

ICR status: An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR Part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The section 316(b) Phase II Existing Facility rule requires the collection of information from existing point source facilities that generate and transmit electric power (as a primary activity) or generate electric power but sell it to another entity for transmission, use a cooling water intake structure (CWIS) that uses at least 25 percent of the water it withdraws from waters of the U.S. for cooling purposes, and have a design intake flow of 50 million gallons per day (MGD) or more. Section 316(b) of the Clean Water Act (CWA) requires that any standard established under section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction and capacity of CWISs at that facility reflect the best technology available (BTA) for minimizing adverse environmental impact. Such impact occurs as a result of impingement (where fish and other aquatic life are trapped on technologies at the entrance to CWIS) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The 316(b) Phase II rule establishes requirements applicable to the location, design, construction, and capacity of CWISs at Phase II existing facilities. These requirements establish the BTA for minimizing adverse environmental impact associated with the use of CWISs.

On January 25, 2007, the United States Court of Appeals for the Second Circuit remanded to EPA certain provisions in the 2004 Final Regulations to Establish Requirements for Cooling Water Intake Structures at Phase II Existing Facilities (See *Riverkeeper, Inc.*

v. *U.S. EPA,* No. 04–6692–ag(L) [2d Cir. Jan. 25, 2007]). EPA is continuing to review the decision to determine its impact on the Phase II Rule. Therefore, this ICR does not address the results of the court decision.

Burden Statement: The annual average reporting and record keeping burden for the collection of information by facilities responding to the Section 316(b) Phase II Existing Facility rule is estimated to be 2,983 hours per facility respondent (i.e., an annual average of 1,157,216 hours of burden divided among an anticipated annual average of 388 facilities). The state Director reporting and record keeping burden for the review, oversight, and administration of the rule is estimated to average 2,034 hours per state respondent (i.e., an annual average of 83,383 hours of burden divided among an anticipated 41 States on average per year). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 549 (508 facilities and 41 states).

Frequency of response: Bi-annually, every five years.

Estimated total average number of responses for each respondent: 24.

Estimated total annual burden hours: 1,240,599 hours.

Estimated total annual costs: $80,556,134. This includes an estimated burden cost of $65,592,289 and an estimated cost of $14,963,845 for capital investment or maintenance and operational costs.

Changes in the Estimates: The change in burden results mainly from the shift from the approval period to the renewal period of the 316(b) Phase II Existing Facilities rule. This ICR covers the last 2 years of the permit approval period (i.e., years 4 and 5 after implementation) and the first year of the renewal period (i.e., year 6 after implementation). Activities for renewing an NPDES permit already issued under the 316(b) Phase II Existing Facilities rule are less burdensome than those for issuing a permit for the first time. Additionally, for the approval period ICR (EPA ICR No. 2060.02), EPA assumed that all facilities complying with the rule would be in NPDES-authorized States. EPA has moved away from this assumption, and, for this ICR, all calculations are based on the estimated number and type of facilities in authorized and non-authorized States.

Dated: February 23, 2007.

James A. Hanlon,

Director, Office of Wastewater Management.

[FR Doc. E7–3589 Filed 2–28–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

February 21, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 2, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167 or via Internet at *Allison_E._Zaleski@.omb.eop.gov* and to *Judith-B Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov*. If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at J*udith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0953.

Title: Wireless Medical Telemetry Service, ET Docket No. 99–255, FCC 00–211.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 2,500 respondents; 2,500 responses.

Estimated Time Per Response: 1–4 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 10,000 hours.

Total Annual Cost: $500,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as an extension during this comment period to obtain the full three-year clearance from them. There is no change in the number of respondents, burden hours or annual costs. The Commission adopted rules which enhance the ability of health care providers to offer high quality and cost effective care to patients with acute and chronic health care needs. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data, such as pulse and respiration rates to a nearby receiver that permits greater patient mobility and increased comfort.

The Commission allocated spectrum to wireless medical telemetry services (WMTS) on a primary basis, which allows potentially life-critical medical telemetry equipment to operate on an interference-protected basis. The Commission also adopted service rules for WMTS that ''license by rule'' meaning that users are permitted to operate WMTS equipment that complies with the rules without the need to apply for a license from the Commission. Furthermore, the Commission adopted rules to designate a frequency coordinator, who maintains a database of all WMTS equipment. Without such a database, there would be no record of WMTS usage because WMTS transmitters are not individually licensed. All parties using equipment in the WMTS are required to coordinate/register their operating frequency and other relevant technical operating parameters with the designated coordinator. The database provides a record of the frequencies used by each facility or device to assist parties in selecting frequencies to avoid interference.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–3519 Filed 2–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Submitted for Review to the Office of Management and Budget

February 22, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before April 2, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Mangement and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at (202) 395–5167 or via Internet at *Allison_E._Zaleski@omb.eop.gov* and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC's PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918 or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Note: Reviewers should note that for this entire extension-without-change notice, the number of respondents and burden hours noted under each collection are the same as the information collections approved on November 3, 2003. This notice does not reflect the larger number of potential respondents and burden hours identified in either the July 16, 2004 Notice of Proposed Rulemaking—In the Matter of Policies and Rules Governing Interstate Pay-Per Call and Other Information Services, and Toll Free Number Usage; Truth-in-Billing and Billing Format, (*2004 Pay-Per-Call NPRM*), CC Docket No. 98–170, and CG Docket No. 04–244, FCC 04–162—or the October 15, 2004 **Federal Register** notice (69 FR 61184), associated with that NPRM. The larger number of respondents and burden hours identified in those documents will not take effect until the Commission finalizes the rulemaking process and receives appropriate OMB clearances for revised information collections.

OMB Control Number: 3060–0748.

Title: Section 64.1504, Restrictions on the Use of Toll-Free Numbers.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 3,750.

Estimated Time per Response: 2–5 hours.

Frequency of Response: Annual and on occasion reporting requirements; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 10,500 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personal identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 64.1504 of the Commission's rules incorporates the requirements of Sections 228(c)(7)-(10) of the Communications Act restricting the manner in which toll-free numbers may be used to charge telephone subscribers for information services. Common carriers may not charge a calling party for information conveyed on a toll-free number call, unless the calling party: (1) Has executed a written agreement that specifies the material terms and conditions under which the information is provided, or (2) pays for the information by means of a prepaid account, credit, debit, charge, or calling card and the information service provider gives the calling party an introductory message disclosing the cost and other terms and conditions for the service. The disclosure requirements are intended to ensure that consumers know when charges will be levied for calls to toll-free numbers and are able to obtain information necessary to make informed choices about whether to purchase toll-free information services.

OMB Control Number: 3060–0749.

Title: Section 64.1509, Disclosure and Dissemination of Pay-Per-Call Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 25.

Estimated Time per Response: 410 hours.

Frequency of Response: Annual and on occasion reporting requirements; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 10,250 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the

collection of personal identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Common carriers that assign telephone numbers to pay-per-call services must disclose to all interested parties, upon request, a list of all assigned pay-per-call numbers. For each assigned number, carriers must also make available: (1) A description of the pay-per-call services; (2) the total cost per minute or other fees associated with the service; and (3) the service provider's name, business address, and telephone number. In addition, carriers handling pay-per-call services must establish a toll-free number that consumers may call to receive information about pay-per-call services. Finally, the Commission requires carriers to provide statements of pay-per-call rights and responsibilities to new telephone subscribers at the time service is established and, although not required by statute, to all subscribers annually.

OMB Control Number: 3060–0752.

Title: Section 64.1510, Billing Disclosure Requirements for Pay-Per-Call and Other Information Services.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,350.

Estimated Time per Response: 10–40 hours.

Frequency of Response: Annual reporting requirements; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 27,000 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personal identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Under 47 CFR 64.1510 of the Commission's rules, telephone bills containing charges for interstate pay-per-call and other information services must include information detailing consumers' rights and responsibilities with respect to these charges. Specifically, telephone bills carrying pay-per-call charges must include a consumer notification stating that: (1) The charges are for non-communication services; (2) local and long distance telephone services may not be disconnected for failure to pay per-call charges; (3) pay-per-call (900 number) blocking is available upon request; and (4) access to pay-per-call services may be involuntarily blocked for failure to pay per-call charges. In addition, each call billed must show the type of services, the amount of the charge, and the date, time, and duration of the call. Finally, the bill must display a toll-free number which subscribers may call to obtain information about pay-per-call services. Similar billing disclosure requirements apply to charges for information services either billed to subscribers on a collect basis or accessed by subscribers through a toll-free number. The billing disclosure requirements are intended to ensure that telephone subscribers billed for pay-per-call or other information services can understand the charges levied and are informed of their rights and responsibilities with respect to payment of such charges.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–3522 Filed 2–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission; Comments Requested

February 22, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information, subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 30, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit PRA comments identified by [CG Docket No. 03–123 and/or OMB Control Number 3060–0463], by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail:* Parties who choose to file by email should submit their PRA comments to *PRA@fcc.gov* and to Allison E. Zaleski at *Allison_E._Zaleski@omb.eop.gov*. Please include the docket number and/or OMB Control number in the subject line of the message.
- *Mail/Fax:* Parties who choose to file by paper should submit their PRA comments to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554, and to Allison E. Zaleski, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via fax at (202) 395–5167.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone (202) 418–0539 or TTY: (202) 418–0432.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), send an e-mail to PRA@fcc.gov or contact Cathy Williams at 202–418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0463.

Title: Telecommunications Relay Services and the Americans with Disabilities Act of 1990, 47 CFR 64.601 through 64.605.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, state, local or tribal government.

Number of Respondents: 5,052.

Estimated Time per Response: 6 hours.

Frequency of Response: On occasion, Annual, Every five years reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 26,831 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personal identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Americans with Disabilities Act of 1990 (ADA), Public Law 101–336, 104 Statute 327, 366–69, was enacted on July 26, 1990. The purpose of the ADA is to provide a clear and comprehensive national mandate to end discrimination against individuals with disabilities and to bring persons with disabilities into the economic and social mainstream of American life; to provide enforceable standards addressing discrimination against individuals with disabilities; and to ensure that the Federal government play a central role in enforcing these standards on the behalf of individuals with disabilities. Title IV of the ADA adds § 225 to the Communications Act of 1934. Section 225 of the Communications Act, requires the Commission to promulgate regulations that require all domestic telephone common carriers to provide telecommunications relay services (TRS). 47 CFR part 64, subpart F of the Commission's rules, implements certain provisions of the ADA. It contains the operational, technical, and functional standards required of all TRS providers and the procedures for state certification. Although § 225 of the Communications Act imposes on all common carriers providing interstate or intrastate telephone services an obligation to provide to hearing and speech-impaired individuals telecommunications services that enable them to communicate with hearing individuals, and charges the Commission with regulatory oversight, states may seek to establish intrastate relay services that satisfy federal requirements.

Pursuant to 47 CFR 64.602 Commission's rules, any violation of subpart F by any common carrier engaged in intrastate communications will be subject to the same remedies, penalties, and procedures as are applicable in interstate communications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–3524 Filed 2–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 03–123; DA 06–2386]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Consumer and Governmental Affairs Bureau dismisses a petition for clarification filed by Communication Service for the Deaf (CSD) requesting the Commission to clarify that the providers of American Sign Language (ASL)-to-Spanish Video Relay Service (VRS) are not required to offer the service 24 hours a day and 7 days a week to be eligible for compensation from the Interstate Telecommunications Relay Service (TRS) Fund (Fund).

DATES: Effective November 28, 2006.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office, (800) 311–4381 (voice), (202) 418–0431 (TTY), or e-mail *Gregory.Hlibok@fcc.gov.*

SUPPLEMENTARY INFORMATION: On July 19, 2005, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Order on Reconsideration, FCC 03–139, CC Docket No. 98–67 and CG Docket No. 03–123, which published in the **Federal Register** on August 31, 2005 at 70 FR 51642, reversing its conclusion that translation from ASL into Spanish is not a form of TRS eligible for compensation from the Fund. Also, on July 19, 2005, the Commission released Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order, FCC 05–140, CC Docket No. 98–67 and CG Docket No. 03–123, which published in the **Federal Register** on August 31, 2005 at 70 FR 51649, establishing a mandatory speed of answer requirement for VRS, requiring VRS to be offered 24 hours a day, 7 days a week. On February 6, 2006, a Petition for Clarification was filed by CSD concerning the provision of ASL-to-Spanish VRS. The petition was placed on public notice, and several comments were filed. The notice was published in the **Federal Register** on March 8, 2006 at 71 FR 11644. This is a summary of the Commission's document DA 06–2386, released November 28, 2006.

Synopsis

On February 6, 2006, CSD filed a petition for clarification concerning whether providers of ASL-to-Spanish VRS, a form of TRS, must offer service 24 hours a day, 7 days a week (24/7) to be eligible for compensation from the Fund. The CSD Petition was placed on public notice, and several comments were filed. On October 19, 2006, CSD filed a letter with the Commission withdrawing its petition. *See* Letter from Karen Peltz Strauss, Legal Consultant for CSD, to Monica Desai, Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission (October 19, 2006). Accordingly, the Consumer and Governmental Affairs Bureau dismisses the CSD Petition.

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E7–3526 Filed 2–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[IB Docket No. 07–23; DA No. 07–100]

International Bureau Invites Comment on Proposal To Remove Certain Non-U.S.-Licensed Satellites From Exclusion List for International Section 214 Authorization Purposes

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The International Bureau invites comment on a proposal to remove from the Section 214 Exclusion List those non-U.S.-licensed satellites that have been allowed to enter the U.S. market for satellite services pursuant to the procedures adopted in the *DISCO II Order*. The International Bureau takes this action pursuant to its delegated authority to maintain the Section 214 Exclusion List, as set forth in the *1996 Streamlining Order*.

DATES: Comments are due April 2, 2007 and reply comments are due April 16, 2007.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Room TW–B204, Washington, DC 20554.

FOR FURTHER INFORMATION: Jennifer Gorny Balatan or Howard Griboff, Policy Division, International Bureau, (202) 418–1460.

SUPPLEMENTARY INFORMATION: In this Document, the International Bureau invites comment on a proposal to remove from the Section 214 Exclusion List those non-U.S.-licensed satellites that have been allowed to enter the U.S. market for satellite services pursuant to the procedure adopted in the *DISCO II Order*. This action is taken pursuant to the International Bureau's authority to maintain the Section 214 Exclusion List, which was delegated to the Bureau by the Commission in the *1996 Streamlining Order*.

In the *1996 Streamlining Order,* the Commission promulgated rules for carriers to apply for and receive a global facilities-based Section 214 authorization, which allow carriers to provide international services using any U.S.-licensed facilities, such as U.S.-licensed satellites, without filing a separate Section 214 application for each new facility. In that order, the Commission also established the Section 214 Exclusion List, which identifies particular facilities and/or particular countries that are not included in a global facilities-based Section 214 authorization, and, therefore, require a separate Section 214 authorization under Section 214 of the Communications Act, as amended.

Initially, the Section 214 Exclusion List included all non-U.S.-licensed satellites. In 1999, however, the Commission as a matter of administrative convenience removed from the Section 214 Exclusion List those non-U.S.-licensed satellites that were on the Permitted Space Station List. The Permitted Space Station List includes all C- and Ku-band fixed-satellite service (FSS) satellites with which U.S. earth stations with routinely authorized technical parameters are permitted to communicate without additional Commission action, provided that those communications fall within the same technical parameters and conditions established in the earth stations' original licenses.

The Commission established the Permitted Space Station List in the *DISCO II First Reconsideration Order* to simplify the *DISCO II* process for non-U.S.-licensed FSS satellites seeking to serve the U.S. market. The administrative convenience provided by using the Permitted Space Station List to determine which non-U.S.-licensed satellites would be included in a global facilities-based Section 214 authorization is limited, however, by the fact that the Permitted Space Station List includes only C- and Ku-band FSS satellites. Non-U.S.-licensed satellites that operate in other services such as MSS, or in other frequency bands such as the L-, Ka-, or V-bands, would not be added to the Permitted Space Station List, and, therefore, still require a separate Section 214 authorization specifically permitting access to those satellites.

In view of these limitations, the International Bureau proposes to remove from the Section 214 Exclusion List any non-U.S.-licensed satellites that have been allowed to provide service to the United States under the *DISCO II* procedure. Under this proposal, the Permitted Space Station List would no longer be used for international Section 214 authorization purposes, and the proposal's adoption would allow service providers to access any authorized non-U.S.-licensed satellites through a global facilities-based Section 214 authorization. Note that only non-U.S.-licensed satellites that have been allowed to enter the U.S. market pursuant to the *DISCO II* procedure, which includes the public interest analysis, would qualify for removal from the Section 214 Exclusion List under this proposal.

Ex Parte Presentations. This is a permit-but-disclose proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in §§ 1.1202, 1.1203, and 1.1206(a) of the Commission's Rules, 47 CFR 1.1202, 1.1203, and 1.1206(a).

Comments. Interested parties may file comments on or before 30 days after publication in the **Federal Register**, and reply comments on or before 45 days after publication in the **Federal Register**. All filings concerning matters referenced in the Public Notice should refer to *DA 07–100* and *IB Docket No. 07–23*. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments.

For ECFS filers, filers must transmit one electronic copy of the comments for the docket number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as a paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service (according to the procedures set forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at *http://www.bcpiweb.com* or (202) 488–5563 (facsimile).

Copies of comments, reply comments, and *ex partes* in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *fcc@bcpiweb.com*. The comments, reply comments and *ex partes* are also available for public

inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. These documents are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet Web site at *http://www.fcc.gov*.

People with Disabilities: Contact the FCC to request materials in accessible formats (braille, large print, electronic files, audio format, etc.) by e-mail at *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–3521 Filed 2–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2805]

Petition for Reconsideration of Action in Rulemaking Proceeding

February 2, 2007.

A Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to this petition must be filed by March 16, 2007. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Reallocation of 30 MHz of 700 MHz Spectrum (747–762/777–792 MHz) from Commercial Use (RM–11348).

Assignment of 30 MHz of 700 MHz Spectrum (747–762/777–792 MHz) to the Public Safety Broadband Trust for Deployment of a Shared Public Safety/Commercial Next Generation Wireless Network.

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–3518 Filed 2–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Notice of Sunshine Act Meeting

DATE & TIME: Tuesday, March 6, 2007 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–981 Filed 2–27–07; 3:07 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 16, 2007.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Todd A. Seib, Dallas, Texas; Jonathan C. Seib, Dallas, Texas; and James A. Priebe, Plano, Texas; to acquire additional voting shares of Gulfport Bancshares of Delaware, Inc., Richwood, Texas, and thereby indirectly acquire voting shares of the Brazos National Bank, Richmond, Texas.

Board of Governors of the Federal Reserve System, February 23, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3569 Filed 2–28–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

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 16, 2007.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Jeffrey G. Dawson Revocable Trust dated 6–10–05, Mound City, Kansas, Jeffrey G. Dawson, trustee, to retain voting shares of Cunningham Agency, Inc., and thereby indirectly retain voting shares of Farmers and Merchants Bank of Mound City, both in Mound City, Kansas.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. J & V Grist Family, Ltd., Andrews, Texas, and general partner, John E. Grist, Andrews, Texas; to acquire voting shares of Andrews Holding Company, Andrews, Texas, and thereby indirectly acquire voting shares of Commercial State Bank, Andrews, Texas.

Board of Governors of the Federal Reserve System, February 26, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3572 Filed 2–28–07; 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 26, 2007.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106-2204:

1. Butler Bancorp, MHC and Butler Bancorp, Inc., both of Lowell, Massachusetts; to acquire 100 percent of the voting shares of, and merge with, Marlborough Bancorp, MHC and thereby indirectly acquire voting shares of Marlborough Co-operative Bank, both of Marlborough, Massachusetts.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Cedar Bancorp, Inc. Mt. Vernon, Illinois; to become a bank holding company by acquiring 100 percent of Jeff City Bancorp, Inc., Mt. Vernon, Illinois and thereby indirectly acquire First National Bank of Mount Vernon, Mt. Vernon, Illinois.

2. Freedom Bancorp, Huntingburg, Indiana; to become a bank holding company by acquiring 100 percent of Freedom Bank, Huntingburg, Indiana.

Board of Governors of the Federal Reserve System, February 23, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3568 Filed 2–28–07; 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 26, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. The Colonial BancGroup, Inc., Montgomery, Alabama; to merge with Commercial Bankshares, Inc., and thereby acquire its subsidiary, Commercial Bank of Florida, both of Miami, Florida.

Board of Governors of the Federal Reserve System, February 26, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3571 Filed 2–28–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 16, 2007.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. NHB Holdings, Inc., and Proficio Mortgage Ventures, LLC, both of Jacksonville, Florida; to engage de novo through a joint venture with Plus Relocation Mortgage Solutions, Minneapolis, Minnesota, and thereby engage in Mortgage related activities pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 23, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3570 Filed 2–28–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Rules of Organization

AGENCY: Federal Open Market Committee.

ACTION: Notice; Amendment to Rules of Organization.

SUMMARY: The Federal Open Market Committee (the ''Committee'') has amended its Rules of Organization to allow for the appointment of a temporary manager of the System Open Market Account in certain circumstances.

DATES: The amendments to the Rules of Organization became effective on January 30, 2007.

FOR FURTHER INFORMATION CONTACT: Kieran J. Fallon, Assistant General Counsel (202–452–5270), April Snyder, Senior Attorney (202–452–3099), Legal Division; Board of Governors of the Federal Reserve System; Deborah J. Danker, Deputy Secretary (202–452–3253), or Matthew Luecke, Senior Financial Analyst, (202–452–2576); Federal Open Market Committee, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Users of Telecommunication Device for Deaf (TTD) *only*, call (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Committee is composed of the members of the Board of Governors of the Federal Reserve System and five representatives of the Federal Reserve Banks, selected in the manner set forth in section 12A of the Federal Reserve Act (12 U.S.C. 263(a)). The Committee's Rules of Organization provide for the Committee to select a manager of the System Open Market Account, which is the account through which open market transactions are conducted on behalf and under the direction of the Committee.[1] The manager keeps the Committee informed on market conditions and on transactions made for the System Open Market Account and renders such reports as the Committee may specify. The Rules of Organization also provide that the manager selected by the Committee shall be satisfactory to the Federal Reserve Bank selected by the Committee to execute transactions for the System Open Market Account (''executing Reserve Bank'').

The manager serves at the pleasure of the Committee. The Committee has amended its Rules of Organization to also provide that if the President of the executing Reserve Bank determines that the manager is not able to perform the duties of the position, the Chairman of the Committee may select, with the concurrence of such President, another person to serve temporarily as manager until the Committee and the executing Reserve Bank select a replacement manager in accordance with the Committee's Rules of Organization. This provision is designed to facilitate the smooth and uninterrupted operation of the System Open Market Account in the event that a manager becomes unable to serve in the position.

The Committee has incorporated the amendments into the Committee's Rules of Organization. The Committee's Rules of Organization are uncodified regulations for use by the Committee and are issued pursuant to 5 U.S.C. 552. Because the amendments relate solely to the internal organization, procedure, or practice of the Committee, the public notice, public comment, and delayed effective date provisions of the Administrative Procedure Act do not apply.[2]

For the reasons discussed above, the Committee has amended its Rules of Organization as follows:

1. The following sentence is added at the end of § 5 of the Rules of Organization:

Section 5—Manager

* * * In the event that the President of the Federal Reserve Bank selected by the Committee determines that the manager is not able to perform the duties of the position, the Chairman may select a person satisfactory to such President to serve as manager until the Committee and the designated Reserve Bank select a replacement manager in accordance with this section.

By order of the Federal Open Market Committee, February 23, 2007.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E7–3540 Filed 2–28–07; 8:45 am]

BILLING CODE 6210–01–P

[1] *See* Committee Rules of Organization, § 5.

[2] *See* 5 U.S.C. 553(b) and (d).

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of January 30–31, 2006

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on January 30–31, 2007.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long–run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 5¼ percent.

By order of the Federal Open Market Committee, February 22, 2007.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E7–3543 Field 2–28–07; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Cancellation of a System of Records

AGENCY: General Services Administration

ACTION: Cancellation of a system of records

SUMMARY: The General Services Administration (GSA) is providing notice of a cancelled record system, Parties Excluded from Federal Procurement and Nonprocurement Program (GSA/OAP–1). The system was replaced by the new system of records GSA/Govt–8 (Excluded Parties List System) which became effective on January 4, 2007.

DATES: Effective: March 1, 2007.

FOR FURTHER INFORMATION: Call or e-mail the GSA Privacy Act Officer: telephone 202–208–1317; e-mail *gsa.privacyact@gsa.gov*.

ADDRESSES: Comments may be submitted to the Program Manager, Integrated Acquisition Environment Program, Office of the Chief Acquisition

[1] Copies of the Minutes of the Federal Open Market Committee meeting on January 30–31, 2007, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

Officer, General Services Administration, 2011 Crystal Drive, Suite 911, Arlington, VA 22202.

Dated: February 21, 2007

Cheryl M. Paige

Acting Director, Office of Information Management

GSA/OAP–1

SYSTEM NAME:

Parties Excluded from Federal Procurement and Nonprocurement Programs.

SYSTEM LOCATION:

This system of records is located in the Office of Acquisition Policy, General Services Administration, 18th and F Streets NW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are:

a. Individuals excluded from the Federal procurement or nonprocurement programs by any Federal executive agency, or individual sureties excluded from bid and performance bond activity;

b. Individuals, firms, sureties, or other parties referred to the Office of Acquisition Policy by General Services Administration offices for consideration for debarment or suspension from Federal procurement programs or from acting as individual sureties in procurement programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include correspondence from Federal agencies identifying excluded individuals, firms, or parties, and the cause for exclusion from Federal or nonprocurement programs; and case files on individuals, firms, or parties referred to the Office of Acquisition Policy, General Services Administration, to consider for suspension, debarment, or exclusion as a Federal contractor, subcontractor, or an individual surety.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended, 41 U.S.C. 235b; Federal Acquisition Regulation (FAR) 9.4 and 28.2; Office of Federal Procurement Policy letter 82–1, June 24, 1982; EO 12549, February 18, 1986; and EO 12689, August 16, 1989.

PURPOSE(S):

To assemble in one system information to insure that: (1) Federal contracts and designated subcontracts are awarded to responsible firms, individuals, and other parties; (2) responsible persons (as defined in agency regulations implementing EO 12549) engage in covered transactions involving Federal financial or nonfinancial assistance programs and benefits; and (3) individual sureties for bid and performance bonds in Federal procurement programs are responsible.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose records contracting officers and other Federal, State, and local employees involved in procuring goods and services with Federal funds and/or administering Federal financial or nonfinancial assistance programs or benefits.

b. To disclose records to a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the records indicate on their face or in conjunction with other records a violation of civil or criminal law and regulation.

c. To disclose records to another Federal agency, a State or local agency that administers Federal financial or nonfinancial assistance programs or benefits, and the records are relevant and necessary to an eligibility determination.

d. To disclose records for the purpose of performing a Federal duty to an expert, consultant, contractor, State or local agency, or financial institution.

e. To disclose information to an appeal, grievance, or formal complaints examiner; equal employment opportunity investigator; arbitrator; exclusive representative; or other official engaged in investigating or settling a grievance, complaint, or appeal filed by an employee, when these records are relevant and necessary to a determination of the issue.

f. To disclose records to a requesting Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant, or other benefit by the requesting agency where the information is relevant and necessary for a decision on a Federal financial or nonfinancial assistance program or benefit.

g. To disclose records to a member of Congress or a congressional staff member in response to an inquiry from that congressional office made in behalf of a constituent, for information pertaining to that constituent.

h. To disclose records to the Department of Justice when the agency, any agency employee, or the United States is party to or has interest in litigation, and using the records is relevant and necessary for furtherance of the litigation.

i. To disclose information to a court or adjudicative body when the agency, any agency employee, or the United States is party to or has interest in litigation, and using the records is relevant and necessary for the furtherance of the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and machine listings in file folders; disc storage in automated electronic system.

RETRIEVABILITY:

General Services Administration case files are retrieved by case number and name of individual or firm. Correspondence from Federal agencies relating to entries on the ''Lists of Parties'' (Lists) is retrieved by agency. Information from the Lists automated data base is retrieved by name and address, Taxpayer Identification Number, Dun and Bradstreet Number, and by action agency.

SAFEGUARDS:

Paper records stored in lockable filing cabinets or secured rooms. Computerized records protected by I.D./password security system.

RETENTION AND DISPOSAL:

Disposal of records is described in the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of GSA Acquisition Policy, General Services Administration (VP), 18th and F Streets NW, Washington, DC 20405.

NOTIFICATION PROCEDURE:

Inquiries from firms, individuals, or parties should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Requests from firms and individuals should be addressed to the system manager as noted above. For identification requirements see the agency regulations outlined in 41 CFR part 105–64.

CONTESTING RECORD PROCEDURES:

General Services Administration rules for contesting the contents and appealing initial decisions are issued in 41 CFR part 105–64.

RECORD SOURCE CATEGORIES:

Federal agencies and State and local law enforcement officials.

[FR Doc. E7–3579 Filed 2–28–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Meeting

ACTION: Change in meeting location to California.

SUMMARY: This notice announces the 12th meeting of the American Health Information Community in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.). The American Health Information Community will advise the Secretary and recommend specific actions to achieve a common interoperability framework for health information technology (IT).

DATES: March 13, 2007, from 8 a.m. to 1:30 p.m. (Pacific time).

NEW ADDRESS: Computer History Museum, 1401 N. Shoreline Boulevard, Mountain View, California 94043.

FOR FURTHER INFORMATION: Visit *http://www.hhs.gov/healthit/ahic.html*.

SUPPLEMENTARY INFORMATION: The meeting will include presentations by the Quality Workgroup; Population Health/Clinical Care Connections Workgroup; Consumer Empowerment Workgroup; and Confidentiality, Privacy and Security Workgroup. It will also feature a panel presentation on Privacy and Security issues.

The general public is invited to participate in person at the Computer History Museum in Mountain View, CA. Alternatively, the public may participate remotely via the Web. The Community meeting will be available on the NIH Web site at: *http://www.videocast.nih.gov/*.

If you have special needs for the meeting, please contact (202) 690–7151.

Dated: February 21, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–914 Filed 2–28–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Availability: Secretarial Acceptance and Planned Recognition of Certain Healthcare Information Technology Standards Panel (HITSP) Interoperability Specifications for Health Information Technology

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), DHHS.

Authority: Executive Order 13335 (''Incentives for the Use of Health Information Technology and Establishing the Position of the National Health Information Technology Coordinator''), Executive Order 13410 (''Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs''), and Public Law 109–149 (''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006'').

SUMMARY: By publication of this document, we are informing the public of the Secretary's acceptance and planned recognition of certain Healthcare Information Technology Standards Panel (HITSP) Interoperability Specifications for health information technology as interoperability standards. The Secretary accepted these standards, version 1.2, in December of 2006, and intends to recognize them in the version 2.0 form in December of 2007, presuming that changes from version 1.2 to version 2.0 are minor and of a technical nature. This list of accepted HITSP standards is available at *http://www.hitsp.org* and click on ''HITSP Interoperability Specifications HERE'' box.

SUPPLEMENTARY INFORMATION: The Healthcare Information Technology Standards Panel (HITSP) was created in 2005 to serve as a cooperative partnership between the public and private sectors for the purpose of achieving a widely accepted and useful set of standards specifically to enable and support widespread interoperability among healthcare software systems, as they will interact in a local, regional, and national health information network in the United States.

Under a contract with the Department of Health and Human Services, the American National Standards Institute (ANSI) established HITSP, following a neutral and inclusive governance model. HITSP is a multi-stakeholder organization involving more than 265 different healthcare industry organizations whose activities on these Interoperability Specifications were supported by more than 12,000 volunteer hours of effort. On October 31, 2006, HITSP presented three sets of ''Interoperability Specifications'' to the American Health Information Community (AHIC). The Interoperability Specifications were developed to advance the national agenda for secure, interoperable health information systems.

The AHIC is a Federal Advisory Committee Act (FACA) advisory body, chartered in 2005 to make recommendations to the Secretary on methods for accelerating the development and adoption of health information technology. At the October 31, 2006, AHIC meeting, the members discussed the first three sets of health data and technical standards. Following that discussion, the AHIC reached consensus and recommended that the Interoperability Specifications be recognized by the Secretary.

We recognize that certain legal obligations may flow from the recognition of these Interoperability Specifications. First, pursuant to Executive Order 13410 (EO 13410) dated August 22, 2006, recognition of Interoperability Specifications would require each Federal health agency, as it implements, acquires, or upgrades health information technology systems used for the direct exchange of health information between agencies and with non-Federal entities, to ''utilize, where available, health information technology systems and products that meet recognized interoperability standards.'' Therefore, Federal agencies would be required to properly consider health information technology systems and products that comply with these Interoperability Specifications when purchasing, implementing, or upgrading such items. Similarly, the EO 13410 directs Federal agencies to contractually require, to the extent permitted by law, certain entities with whom they do business, to use, where available, health information technology systems and products that meet recognized interoperability standards.

In addition, the regulations promulgated on August 8, 2006 (*see* 71 FR 45140 and 71 FR 45110) established exceptions and safe harbors to the physician self-referral law and the anti-kickback statute, respectively, for certain arrangements involving the donation of electronic prescribing and electronic health records (EHR) technology and services. The EHR exception and safe harbor require that the software be ''interoperable'' as defined in the regulations. The rules also provide that certain software will

be deemed to be ''interoperable'' if that software has been certified by a certifying body recognized by the Secretary within 12 months prior to the donation. Under the interim guidance for the recognition of certifying bodies published by the ONC (''Office of the National Coordinator for Health Information Technology (ONC) Interim Guidance Regarding the Recognition of Certification Bodies''), for an organization to be recognized as a recognized certifying body (RCB), the organization must:

- Have in place a demonstrated process by which they certify products to be in compliance with criteria recognized by the Secretary;
- Have a method by which they can incorporate all applicable standards and certification criteria into their certification processes; and
- Have the ability to adapt their processes to emerging certification criteria recognized by the Secretary.

The RCBs would therefore have to certify such products in conformity with, among other provisions, these interoperability specifications for the certified products to meet the interoperability deeming provisions of the physician self-referral exception and anti-kickback safe harbor, respectively.

The Secretary is mindful that the ability of software to be interoperable evolves as technology develops. Consequently, if an enforcement action is initiated for an allegedly improper donation of EHR non-certified software, the Secretary would review whether the software was interoperable, as defined in the regulations. The Secretary would consider the prevailing state of technology at the time the items or services were provided to the recipient. As explained in the regulations, the Secretary understands that parties should have a reasonable basis for determining whether the EHR software is interoperable. We therefore indicated that ''it would be appropriate—and, indeed, advisable—for parties to consult any standards and criteria related to interoperability recognized by the Department.'' Compliance with these standards and criteria, as we explained in the regulations, ''will provide greater certainty to donors and recipients that products meet the interoperability requirement, and may be relevant in an enforcement action.''

Based on the changing nature of technological development noted above, the Secretary has accepted these Interoperability Specifications, and intends to recognize them in version 2.0 form in December of 2007, presuming that changes from version 1.2 to version 2.0 are minor and of a technical nature. He has also delegated authority to ONC to coordinate and oversee the incorporation of these Interoperability Specifications in relevant activities among Federal agencies and other partner organizations, as appropriate.

FOR FURTHER INFORMATION CONTACT: Judith Sparrow at (202) 690–7151.

Dated: February 23, 2007.

Robert M. Kolodner,

Interim National Coordinator for Health IT.

[FR Doc. 07–915 Filed 2–28–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees at Hanford in Richland, Washington, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at Hanford in Richland, Washington, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition For the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Hanford.

Location: Richland, Washington.

Job Titles and/or Job Duties: All roving maintenance carpenters and apprentice carpenters who worked in the 100, 200, 300, and 400 Areas.

Period of Employment: April 25, 1967 through February 1, 1971.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: February 22, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 07–912 Filed 2–28–07; 8:45 am]

BILLING CODE 4163–19–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institutes for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employee at the Allied Chemical Corporation Plant in Metropolis, Illinois, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On February 1, 2007, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons employees who were monitored or should have been monitored for exposure to ionizing radiation while working at Allied Chemical Corporation Plant in Metropolis, Illinois from January 1, 1959 through December 31, 1976, and who were employed for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on March 3, 2007, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: February 22, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 07–910 Filed 2–28–07; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees at the Ames Laboratory in Ames, Iowa, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at the Ames Laboratory in Ames, Iowa, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Ames Laboratory.

Location: Ames, Iowa.

Job Titles and/or Job Duties: All sheet metal workers, physical plant maintenance and associated support staff (includes all maintenance shop personnel) of Ames Laboratory and supervisory staff that may have been exposed to the maintenance and renovation activities of the thorium production areas in Wilhelm Hall (also known as the Metallurgy Building or ''Old'' Metallurgy Building).

Period of Employment: January 1, 1955 through December 31, 1970.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail *OCAS@CDC.GOV*.

Dated: February 22, 2007.

John Howard,

Director, Institute for Occupational Safety and Health.

[FR Doc. 07–913 Filed 2–28–07; 8:45 am]

BILLING CODE 4163–19–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: the Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Harshaw Harvard-Denison Plant in Cleveland, Ohio, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On February 1, 2007, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons employees who were monitored or should have been monitored while working at the Harshaw Harvard-Denison Plant located at 1000 Harvard Avenue in Cleveland, Ohio from August 14, 1942 through November 30, 1949, and who were employed for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on March 3, 2007, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: February 22, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 07–909 Filed 2–28–07; 8:45 am]

BILLING CODE 4100–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees at W.R. Grace in Erwin, Tennessee, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at W.R. Grace in Erwin, Tennessee, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: W.R. Grace.

Location: Erwin, Tennessee.

Job Titles and/or Job Duties: All workers.

Period of Employment: January 1, 1958 through December 31, 1970.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: February 22, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 07–911 Filed 2–28–07; 8:45 am]

BILLING CODE 4163–19–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): NIOSH Occupational Safety and Health Project Grants, Program Announcement Number (PAR) 06–484

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:

Time and Date: 8:30 a.m.–5:30 p.m., March 15, 2007 (Closed).

Place: Residence Inn, 1456 Duke Street, Alexandria, VA 22314, telephone 703–548–5474.

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 SEP meeting will include the review, discussion, and evaluation of applications received in response to ''NIOSH Occupational Safety and Health Project Grants,'' PAR 06–484. The applications being reviewed include information of a confidential nature, including personal information concerning individuals associated with the applications.

This **Federal Register** Notice is being published on less than 15 calendar days notice to the public (41 CFR 102–3.150(b)), for the following reason: The cancellation of a preparatory meeting scheduled for January 16th due to inclement weather caused the late publication of this notice. Convening the preparatory meeting was necessary before this meeting could be scheduled. The preparatory meeting occurred on February 20–21, 2007, which enabled the program to finalize plans for this meeting.

For Further Information Contact: Charles Rafferty, Ph.D., Designated Federal Officer, 1600 Clifton Road NE, Atlanta, GA 30333, telephone 404–498–2582.

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 26, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–3653 Filed 2–28–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

The Essentials of Food and Drug Administration Medical Device Regulations: A Primer for Manufacturers and Suppliers; Public Seminar

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public seminar.

SUMMARY: The Food and Drug Administration's (FDA's) Center for Devices and Radiological Health and Office of Regulatory Affairs, in cooperation with AdvaMed's Medical Technology Learning Institute, is announcing a series of three seminars on FDA medical device regulations.

These 2-day seminars, which are designed to address the training needs of start up and small device manufacturers and their suppliers, will include both industry and FDA perspectives and a question and answer period.

Dates: The seminars are planned for the following dates:

1. March 15 and 16, 2007, in Irvine, CA 92614. Details about dates are posted on AdvaMed's Web site at: *www.advamed.org/irvine*.[1]

2. May 22 and 23, 2007, in Lakewood, CO 80228. Details about dates are posted on AdvaMed's Web site at: *www.advamed.org/denver*.

3. June 6 and 7, 2007, in Pittsburgh, PA, Details about dates are posted on AdvaMed's Web site at: *www.advamed.org/pittsburgh*.

Locations: The seminars are planned for the following locations:

1. March 15 and 16, 2007, Crown Plaza Hotel, 17941 Von Karman, Irvine, CA 92614. Details about location sites are posted on AdvaMed's Web site at: *www.advamed.org/irvine*.

2. May 22 and 23, 2007, Sheraton Denver West, 360 Union Blvd., Lakewood, CO 80228. Details about location sites are posted on AdvaMed's Web site at: *www.advamed.org/denver*.

3. June 6 and 7, 2007, Hilton Pittsburgh, 600 Commonwealth Pl., Pittsburgh, PA 15222, *www.HiltonPittsburgh.com*. Details about location sites are posted on AdvaMed's Web site at: *www.advamed.org/pittsburgh*.

Contact: *For FDA*: William Sutton, Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health (HFZ–220), 1350 Piccard Dr., Rockville, MD 20850, 800–638–2041, ext. 125, FAX: 240–276–3151, e-mail: *William.sutton@fda.hhs.gov*.

For AdvaMed: Dia Black, 202–434–7231, FAX: 202–783–8750, e-mail: *DBlack@AdvaMed.org*.

Registration: The registration fee for FDA employees is waived. Send registration information (including name, title, firm name, address, telephone, and fax number) and the registration fee of $495 per person to AdvaMed contact Dia Black, 202–434–7231, FAX: 202–783–8750. Payment forms accepted are major credit card (MasterCard, Visa, or American Express) or company check. If you wish to pay by check, contact Dia Black at: *DBlack@AdvaMed.org*.

To register via the Internet, go to *www.AdvaMed.org*. The latest information on dates/venue sites will be posted on this Web site at: *www.advamed.org/irvine*, *www.advamed.org/denver*, and *www.advamed.org/pittsburgh* (FDA has verified the Web site addresses, but is not responsible for changes to the Web sites after this document publishes in the **Federal Register**).

For more information on the meeting, or for questions on registration, contact Dia Black (see *Contact*).

Attendees are responsible for their own accommodations. For further hotel information and driving directions, go to the registration Web site.

The registration fee will be used to offset the expenses of hosting the conference, including meals (breakfasts and a lunch), refreshments, meeting rooms, and training materials. It also includes a networking reception on the evening of the first day of each seminar.

Space is limited; therefore, interested parties are encouraged to register early. There will be no onsite registration.

If you need special accommodations due to a disability, please contact Dia Black (see *Contact*) at AdvaMed at least 7 days in advance of the seminar.

SUPPLEMENTARY INFORMATION: The ''Essentials of FDA Medical Device Regulations: A Primer for Manufacturers and Suppliers'' seminar helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health by educating new entrepreneurs on the essentials of FDA device regulations. FDA has made education of the medical device community a high priority to assure the quality of products reaching the marketplace and to increase the rate of voluntary industry compliance with regulations.

[1] FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.

The seminar helps to implement the objectives of section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393) and the FDA Plan for Statutory Compliance, which includes working more closely with stakeholders and ensuring access to needed scientific and technical expertise. The seminar also furthers the goals of the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121) by providing outreach activities by Government agencies directed at small businesses.

The following topics, as well as others, will be discussed at the seminar:

- Doing business in a regulated industry;
- Organizational structure of FDA;
- Overview of the quality system regulation;
- Design controls;
- Documents, records, and change control;
- Purchasing controls and acceptance activities;
- Production and process control;
- Corrective and preventive actions;
- Complaints, medical device reports, corrections, and recalls;
- Compliance issues;
- Management responsibility;
- Interacting with FDA—Where do you go for assistance?
- General question and answer session;
- Manufacturers and suppliers—the chain regulatory responsibility;
- Reimbursement of medical technology;
- The AdvaMed code of ethics; and
- Fraud and abuse.

Dated: February 23, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–3619 Filed 2–28–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, and/or contract proposals, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, ''Early Diagnosis Using Nanotechnology-Based Imaging & Sensing'' and ''Multifunctional Therapeutics ''Based on Nanotechnology''.

Date: March 14, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Marriott Bethesda, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Joyce C. Pegues, PhD., Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 7149, Bethesda, MD 20892, 301/594–1286, *peguesj@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI Community Networks Program.

Date: March 22–23, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Bratin K. Saha, PhD., Scientific Review Administrator, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8041, Bethesda, MD 20892, (301) 402–0371. *sahab@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Prevention, Control and Population Science SEP.

Date: March 28, 2007.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Conference Room 210, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeannette F. Korczak, PhD., Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8115, Bethesda, MD 20892, 301–496–9767. *korczakj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: February 21, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–923 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, Blueprint K18—Neurodegeneration.

Date: March 16, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christine A. Livingston, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS).

Dated: February 21, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–924 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders, Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 23, 2007.

Open: 8 a.m. to 8:30 a.m.

Agenda: Reports from Institute Staff.

Place: National Institutes of Health, 5 Research Court, 2A–08, Rockville, MD 20850.

Closed: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 5 Research Court, 2A–08, Rockville, MD 20850.

Contact Person: Robert J. Wenthold, PhD., Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 2B28, Rockville, MD 20852, 301–402–2829.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS).

Dated: February 20, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–925 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Development of Automated Methods for Autoimmune Disease Identification.

Date: March 7, 2007.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700–B Rockledge Drive, Room 3136, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mercy R. Prabhudas, PhD., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2615, *mp457n@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 20, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–926 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Partnerships to Improve Diagnosis and Treatment of Selected Drug-Resistant Healthcare-Association Infections.

Date: March 13, 2007.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Salon G of the Grant Ballroom, Gaithersburg, MD 20878.

Contact Person: Alec Ritchie, Ph.D, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID/DHHS, 6700 B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–435–1614, *aritchie@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 20, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–927 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 07–46, Review RFA DE–07–009.

Date: April 5, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Sooyoun (Sonia) Kim, MS, 45 Center Dr., 4An 32B, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892, (301) 594–4827, *kims@email.nidr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 07–45, Review R13.

Date: April 10, 2007.

Time: 1 p.m. to 2 p.m.

Agenda: To grant and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Kelly, Scientific Review Specialist, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Bldg., RM 4AN38J, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 07–47, Review Extramural Loan Repayment Applications.

Date: April 24, 2007.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Kelly, Scientific Review Specialist, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Bldg., RM 4AN38J, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 20, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–928 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Disease Investigation through Specialized Clinical Oriented Ventures in Environmental Research (DISCOVER).

Date: March 6–9, 2007.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Durham at Southpoint, 7807 Leonardo Drive, Durham, NC 27713.

Contact Person: Janice B. Allen, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Outstanding New Environmental Scientist Award (ONES).

Date: March 13, 2007.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Crestwood Suites Hotel, 300 Meredith Drive, Research Triangle Park, NC 27713.

Contact Person: Janice B. Allen, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 20, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–929 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: March 12, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6908, *ak41o@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 21, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–930 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Population Sciences Subcommittee.

Date: March 15–16, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Carla T. Walls, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH,6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Subcommittee.

Date: March 26, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Gopal M. Bhatnagar, PhD., Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 21, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–931 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion person privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Reproduction, Andrology, and Gynecology Subcommittee.

Date: March 19–20, 2007.

Time: 1 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn by Marriott—Pentagon City, 550 Army Navy Drive, Arlington, VA 22202.

Contact Person: Dennis Leszczynski, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–2717, *leszczyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 21, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–932 Filed 2–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Land Border Carrier Initiative Program

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Land Border Carrier Initiative Program (LBCIP). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 30, 2007, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, *Attn.:* Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, *Attn.:* Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Land Border Carrier Initiative Program.

OMB Number: 1651–0077.

Form Number: N/A.

Abstract: LBCIP is a Program in which applicants are pre-screened in order to receive expedited processing at CBP land ports-of-entry. The Customs and Trade Partnership Against Terrorism (C–TPAT) Program supersedes LBCIP and expands it to include other entities, including air and sea. Its purpose is also to provide participants expedited processing at ports-of-entry. CBP requests that the name of this information collection be changed from Land Border Carrier Initiative Program (LBCIP) to Customs and Trade Partnership Against Terrorism (C–TPAT).

Current Actions: This submission is being submitted to extend the expiration date and to revise this information collection.

Type of Review: Extension (with change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 6,500.

Estimated Time per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 32,500.

Estimated Total Annualized Cost on the Public: N/A.

Dated: February 22, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E7–3557 Filed 2–28–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–23]

Notice of Submission of Proposed Information Collection to OMB; Civil Rights Front End and Limited Monitoring Review

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.

The Office of Public and Indian Housing (PIH) has developed 2 checklists to conduct civil rights monitoring reviews of 20 Public Housing Agencies (PHAs) in FY07, in support of HUD's strategic goal of ensuring equal opportunity in housing. PIH staff will complete checklist A (On-site Limited Review of Civil Rights-Related Program Requirements for Low Rent and Housing Choice Voucher Programs) during onsite comprehensive reviews. PHAs will complete checklist B (onsite Limited review of Section 504 Monitoring). The information collected will be used to evaluate a PHA's compliance with the Fair Housing Laws.

DATES: *Comments Due Date:* April 2, 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 (2577–NEW) 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://www5.hud.gov:63001/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: Civil Rights Front End and Limited Monitoring Review.

OMB Approval Number: 2577–New.

Form Numbers: Hud-Pending.

Description of the Need for the Information and Its Proposed Use

PIH has developed 2 checklists to conduct civil rights monitoring reviews of 20 PHAs in FY07, in support of HUD's strategic goal of ensuring equal opportunity in housing. PIH staff will complete checklist A (On-site Limited Review of Civil Rights-Related Program Requirements for Low Rent and Housing Choice Voucher Programs) during onsite comprehensive reviews. Public Housing Agencies will complete checklist B (on-site Limited review of Section 504 Monitoring). The information collected will be used to evaluate a PHA's compliance with the Fair Housing Laws.

Frequency of Submission: On occasion, Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	20	1		2		40

Total Estimated Burden Hours: 40
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 26, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–3609 Filed 2–28–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5124–N–05]

Notice of Submission of Proposed Information Collection to OMB; LOCCS Voice Response System Payment Vouchers for Public and Indian Housing Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, 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.

HUD is requesting extension of OMB approval for the application for grant funds disbursement through the LOCCS Voice Response System.

DATES: *Comments Due Date:* April 2, 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 (2577–0166) and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000; e-mail *Aneita_L._Waites@HUD.gov*; telephone (202) 402–4114. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Waites and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) will be submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and 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: LOCCS Voice Response System Payment Vouchers for Public and Indian Housing Programs.

OMB Approval Number: 2577–0166.

Form Numbers: HUD–50080 series.

Description of the Need for the Information and its Proposed Use

Grant recipients use the applicable payment information to request funds from HUD through the LOCCS/VRS voice activated system. The information collected on the payment voucher will also be used as an internal control measure to ensure the lawful and appropriate disbursement of Federal funds as well as provide a service to program recipients.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	4,746	114,113		0.15		17,117

Total Estimated Burden Hours: 17,117.

Status: Request for extension of an existing information collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 16, 2007.

Bessy Kong,

Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives.

[FR Doc. E7–3610 Filed 2–28–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5128–N–01]

Regulatory Waivers for Public Housing Programs To Assist With Transition to Asset Management

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice advises the public of a process for seeking expedited waivers of HUD program regulations to assist public housing agencies (PHAs) as they convert to asset management. This notice, which concerns regulations governing HUD's Office of Public and Indian Housing (PIH), does not apply to: PHAs with less than 250 units that do not elect to convert to asset management, Indian and Tribally Designated Housing Entities (TDHEs), local tribal governments, or PHAs that administer only the Section 8 Housing Choice Voucher program (''Section 8-only PHAs''). The expedited regulatory waiver process applies only to waivers of PIH program regulations applicable to PHAs.

FOR FURTHER INFORMATION CONTACT: Gregory A. Byrne, Director, Financial Management Division, Real Estate Assessment Center, Office of Public Housing Programs, Department of Housing and Urban Development, 550 12th Street, SW., Room 2202, Washington, DC 20410–5000; telephone number (202) 475–8632. Persons with hearing or speech impairments may

access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On September 19, 2005 (70 FR 54984), HUD published a final rule in the **Federal Register** amending the regulations of the Public Housing Operating Fund Program at 24 CFR part 990. The final rule provides a new formula for distributing operating subsidy to PHAs. The final rule also requires PHAs with 250 or more public housing units to convert to asset management; PHAs with less than 250 units may elect, but are not required, to convert. While 24 CFR part 990, as revised by the final rule, directs the conversion to asset management, it does not address all aspects of the organizational and business requirements related to converting public housing to a project-based model.

PHAs and their representatives have expressed concern that the transition to asset management necessitates extensive PHA organizational changes, which may require the waiver of certain HUD regulatory requirements. Waivers of HUD regulations are handled on a case-by-case basis. Under section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), a regulated party that seeks a waiver of a HUD regulation must submit a written waiver request to HUD that specifies the need for the waiver. In accordance with 24 CFR 5.110, upon determination of good cause, HUD may, subject to statutory limitations, waive provisions of title 24 of the Code of Federal Regulations. HUD's authority to grant waivers is limited to non-statutory requirements. Accordingly, HUD regulations that repeat statutory requirements may not be waived.

The Secretary has delegated regulatory waiver authority for PIH programs to the Assistant Secretary for Public and Indian Housing (see the delegation of authority published on September 16, 2003 (68 FR 54240)). The Assistant Secretary will respond to all waiver requests in writing. Each quarter, HUD will publish in the **Federal Register** a summary of all waivers granted during the preceding period and the name of each applicant PHA.

II. Expedited Regulatory Waiver Process

This notice addresses concerns raised by PHAs by announcing an expedited process for HUD to respond to PHA requests for waivers of regulations to assist in the conversion to asset management. The waiver process announced in this notice does not suspend the normal waiver-granting process.

A. Eligible PHAs

PHAs converting to asset management in accordance with 24 CFR part 990 (including PHAs with less than 250 units electing to convert to asset management) are eligible to request regulatory waivers using the expedited process announced in this notice. This notice does not apply to: PHAs with less than 250 units that do not elect to convert, TDHEs, local tribal governments, or PHAs that administer only the Section 8 Housing Choice Voucher program (''Section 8-only PHAs''). PHAs, TDHEs, and local tribal governments ineligible to request regulatory waivers using the expedited procedures of this notice may submit waiver requests for HUD's consideration on a case-by-case basis using customary waiver procedures.

B. Eligible Regulatory Requirements

Under the expedited regulatory waiver procedures announced in this notice, HUD will consider requests for waivers of non-statutory PIH program regulations applicable to PHAs (as noted above, statutory requirements may not be waived). The expedited process is particularly designed to address waiver requests for non-statutory program requirements that are uniquely different from requirements applicable to operators of other HUD-subsidized housing programs.

For example, while many PHAs have indicated the need to streamline the rules regarding the calculation of rent, such rules are statutory (and essentially equivalent to those that govern other HUD-subsidized housing programs, such as Section 8 project-based housing). Accordingly, HUD may not consider waiver requests for such statutory provisions. On the other hand, the current requirement that PHAs conduct annual inspections in accordance with Uniform Physical Condition Standards (UPCS) is not statutory (nor required of operators of HUD subsidized housing) and therefore is eligible for waiver under this notice.

C. Waiver Request Process

Eligible PHAs that wish to obtain a regulatory waiver under the expedited process described in this notice must submit their waiver request to the following email address: *PH_Asset_Management_Expedited_Waiver_Process@hud.gov.* The e-mail request must contain the following:

- A list of the HUD regulations from which the PHA specifically requests relief;
- An Adobe Acrobat PDF copy of the Board Resolution approving the request for the waiver(s);
- A statement of the reason (need) and good cause for the waiver(s), which specifically addresses how the granting of the requested regulatory waiver(s) would facilitate the PHA's conversion to asset management; and
- A statement that the PHA will make any necessary changes in its policies and procedures required to implement the waiver(s), if approved.

Please note that, while HUD is not requiring PHAs to modify their policies and procedures prior to applying for these waivers, PHAs are to certify that they will modify them accordingly prior to implementation, if HUD approves the waiver request. To the extent that any such changes require resident and/or public notice under 24 CFR part 966 (governing public housing lease and grievance procedures), the PHA certifies to meeting those procedural requirements prior to implementation. Under part 966, modifications to rules and regulations that are required to be incorporated by reference in leases are subject to comment by affected tenants. Specifically, § 966.5 provides that PHAs ''shall give at least 30-day written notice to each affected tenant setting forth the proposed modification, the reasons therefor, and providing the tenant an opportunity to present written comments which shall be taken into consideration by the PHA prior to the proposed modification becoming effective.''

Under the expedited waiver process contained in this notice, HUD will review and either approve or disapprove the requests within 30 days of receipt of a complete submission package. HUD reserves the right to withhold or reject a waiver request due to a PHA's operating performance or due to other matters.

III. Examples of Possible Regulatory Requirements to be Considered for Waivers

The following are examples of non-statutory PIH regulatory requirements that have been identified by PHAs as possibly impacting their conversion to asset management. In addition, the following regulations are not required of operators of HUD's subsidized housing programs. The following list of regulatory requirements is not exhaustive, but is designed to assist PHAs in identifying the types of PIH program requirements that HUD may

consider waiver requests for under this notice.

A. 24 CFR 902.60(d) (Management Operations and Resident Service and Satisfaction Information)

HUD plans to revise the Public Housing Assessment System (PHAS) along the lines of an asset management model, which will result in different scoring and tracking mechanisms than HUD currently utilizes. While the PHAS is mostly rooted in statute (section 6(j) of the Housing Act of 1937 (42 U.S.C. 1437d(j)), there is no statutory requirement that PHAs submit to annual evaluations. Hence, for PHAs that request and show good cause, HUD will waive the requirement to submit a management operations certification, and will also waive the resident satisfaction survey, for a PHA's final year prior to required conversion to project-based budgeting and accounting (*i.e.*, PHAs with fiscal years ending June 30, 2007, September 30, 2007, December 31, 2007, and March 31, 2008). HUD will not waive the independent physical inspection (conducted on all PHAs that score less than 80 on the previous year's inspection) or the requirement to submit a Financial Data Schedule (FDS). For purposes of scoring, HUD may, on a case-by-case basis, consider several alternatives that provide a PHAS score based on all four indicators, including: (1) Carrying over the PHA's entire PHAS score from the previous year, or (2) carrying over only the management assessment and resident satisfaction scores and tabulating new physical condition and financial condition scores.

B. 24 CFR 902.43 (a)(4) (Annual Inspections)

Section 6(f) of the United States Housing Act of 1937 requires PHA annual inspections. Waivers will be considered relating to the conduct of PHA annual inspections in accordance with Uniform Physical Condition Standards (UPCS). A PHA would still be required to conduct annual inspections; however, in accordance with section 6(f), it could perform those inspections in accordance with laws, standards, or state or local codes that the Secretary, upon granting the waiver, determines meet or exceed the UPCS. In requesting a waiver of the UPCS inspection requirement, the PHA must indicate the alternative inspection standards it intends to use and why such alternative standards meet or exceed the UPCS. PHAs are still subject to Real Estate Assessment Center physical inspections using UPCS at the frequency contained in 24 CFR part 902.

C. 24 CFR Part 964 (Tenant Participation)

Part 964 establishes various requirements for PHAs pertaining to tenant (resident) participation. HUD will consider requests for waivers relating to such issues as: the role of jurisdiction-wide resident councils (as these are not mandated by law), PHA roles in resident participation activities, requirements concerning resident council membership, election procedures, and uniform bylaws.

Dated: February 22, 2007.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. E7–3625 Filed 2–28–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Construction of a Single-Family Residence in Sarasota County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of an incidental take permit (ITP) and Habitat Conservation Plan (HCP). Joseph Pansulla (Applicant) requests an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The Applicant anticipates taking about 0.79 acre of Florida scrub-jay (*Aphelocoma coerulescens*)(scrub-jay) foraging, sheltering, and possibly nesting habitat, incidental to lot preparation for the construction of a single-family residence and supporting infrastructure in Sarasota County, Florida (Project). The destruction of 0.79 acre of foraging and sheltering habitat is expected to result in the take of one family of scrub-jays. The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Projects to the Florida scrub-jay.

DATES: Written comments on the ITP application and HCP should be sent to the South Florida Ecological Services Office (see **ADDRESSES**) and should be received on or before April 2, 2007.

ADDRESSES: Persons wishing to review the application and HCP may obtain a copy by writing the Service's South Florida Ecological Services Office. Please reference permit number TE143178–0 in such requests. Documents will also be available for public inspection by appointment during normal business hours at the South Florida Ecological Services Office, 1339 20th Street, Vero Beach, Florida 32960.

FOR FURTHER INFORMATION CONTACT: Ms. Trish Adams, Fish and Wildlife Biologist, South Florida Ecological Services Office, Vero Beach, Florida (see **ADDRESSES**), telephone: 772/562–3909, ext. 232.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference Pansulla SFL HCP in such requests. You may mail comments to the Service's South Florida Ecological Services Office (see **ADDRESSES**). You may also comment via the Internet to *trish_adams@fws.gov.* Please also include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand deliver comments to the Service office listed under **ADDRESSES**. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Residential construction for the Pansulla SFL HCP will take place within Section 15, Township 40, Range 19, Englewood, Sarasota County, Florida, on 1 lot. This lot is within scrub-jay occupied habitat.

The lot encompasses about 1.22 acres, and the footprint of the homes, infrastructure, and landscaping preclude retention on 0.79 acre of scrub-jay habitat on this lot. In order to minimize take on site the Applicant proposes to mitigate for the loss of 0.79

acre of scrub-jay habitat by contributing a total of $40,000.00 to the Florida Scrub-jay Conservation Fund administered by The Nature Conservancy. The Florida Scrub-jay Conservation Fund is earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

The Service has determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. Low-effect HCPs are those involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 et seq.). If it is determined that those requirements are met, the ITP will be issued for the incidental take of the Florida scrub-jay. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Authority: This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

Dated: February 23, 2007.

Paul Souza,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. E7–3573 Filed 2–28–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–400–1210–MD–241A]

Notice of Public Meeting, Coeur d'Alene District Resource Advisory Council Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Coeur d'Alene District Resource Advisory Council (RAC) will meet as indicated below.

DATES: April 3, 2007. The meeting will start at 10 a.m. and end no later than 4 p.m. The public comment period will be from 1 p.m. to 1:30 p.m. The meeting will be held at the Idaho Commerce and Labor Career Center office located at 1350 Troy Road in Moscow, Idaho.

FOR FURTHER INFORMATION CONTACT: Stephanie Snook, RAC Coordinator, BLM Coeur d'Alene District, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815 or telephone (208) 769–5004.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. The agenda will include the following topics: Election of Officers, recreation site planning and fee proposal process and recreation subcommittees. Additional topics may be added and will be included in local media announcements. More information is available at *http://www.blm.gov/rac/id/id_index.htm.*

All meetings are open to the public. The public may present written comments to the Council in advance of or at the meeting. Each formal Council meeting will also have time allocated for receiving public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the BLM as provided above.

Dated: February 23, 2007.

Stephanie Snook,

Acting District Manager.

[FR Doc. E7–3562 Filed 2–28–07; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–922 (Review)]

Automotive Replacement Glass Windshields From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on automotive replacement glass windshields from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on automotive replacement glass windshields from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is April 20, 2007. Comments on the adequacy of responses may be filed with the Commission by May 14, 2007. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

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

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 07–5–167, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On April 4, 2002, the Department of Commerce issued an antidumping duty order on imports of automotive replacement glass windshields from China (67 FR 16087). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product coextensive with the scope consisting of automotive replacement glass windshields. One Commissioner defined the Domestic Like Product differently.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as all domestic producers of automotive replacement glass windshields. One Commissioner defined the Domestic Industry differently.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is April 4, 2002.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 20, 2007. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 14, 2007. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the

Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to Be Provided in Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: February 22, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3536 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. DR–CAFTA–103–016]

Probable Economic Effect of Modifications to DR–CAFTA Rules of Origin and Tariffs for Certain Apparel Goods

AGENCY: United States International Trade Commission.

ACTION: Clarification of scope of investigation, change in title, and extension of deadline for filing written submissions.

SUMMARY: The title of the investigation as published in the **Federal Register** on February 9, 2007 (72 FR 7455) suggests that the Commission will provide advice limited to the probable economic effect of modification of certain rules of origin in the Dominican Republic-Central America-United States Free Trade Agreement for certain apparel goods of Costa Rica and the Dominican Republic only. However, the text of the notice indicates that the Commission will provide such advice with respect to the probable economic effect of modification of the rules of origin on such apparel goods of all the parties to the agreement. The Commission's intent to is provide the broader advice. Accordingly, the title of the investigation is amended to delete ''of Costa Rica and the Dominican Republic.'' To allow additional time for any interested parties who may have been confused by the title, the Commission has extended the deadline for filing written submissions in this investigation from March 2, 2007 to March 16, 2007.

All other information in the notice published on February 9, 2007, including with respect to Commission contacts, background information, and requirements for submitting written statements (except for the deadline) remains the same.

Issued: February 23, 2007.

By order of the Commission.

Marilyn Abbott,

Secretary to the Commission.

[FR Doc. E7–3539 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–595]

In the Matter of Certain Dynamic Random Access Memory Devices and Products Containing Same; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 29, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Renesas Technology Corp., of Tokyo, Japan. A supplemental letter was filed on February 16, 2007. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic random access memory devices and products containing same by reason of infringement of U.S. Patent Nos. 7,115,344 and 7,116,128. The complaint, as supplemented, further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Heidi E. Strain, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 22, 2007, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dynamic random access memory devices and products containing same by reason of infringement of one or more of claims 1 and 8 of U.S. Patent No. 7,115,344 and claims 1 and 5 of U.S. Patent No. 7,116,128, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Renesas Technology Corp., Marunouchi Building, 4–1, Marunouchi 2-chome, Chiyoda-ku, Tokyo 100–6334.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co., Ltd., Samsung Main Building, 250, Taepyeongno 2-ga, Jung-ga, Seoul 100–742, Korea.

Samsung Electronics America, Inc., 105 Challenger Road, Ridgefield Park, New Jersey.

(c) The Commission investigative attorney, party to this investigation, is Heidi E. Strain, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–R, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or

cease and desist order or both directed against the respondent.

Issued: February 23, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3585 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–585]

In the Matter of Certain Engines, Components Thereof, and Products Containing the Same; Notice of Commission Determination Not To Review ALJ Order No. 6 Granting Complainant's Motion To Amend the Complaint and Notice of Investigation by Adding a Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') (Order No. 6) granting complainant's motion to amend the complaint and the notice of investigation to add respondent Wuxi Kama Power Co. Ltd. to the investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: On October 19, 2006, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by American Honda Motor Company, Inc. of Torrance, California, alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain engines, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 5,706,769 and 6,250,273. 71 FR 61799 (Oct. 19, 2006). The complainant named Wuxi Kipor Power Co., Ltd. of Jiangsu, China as a respondent.

On January 24, 2007, the ALJ issued Order No. 6 granting complainant's motion to amend the complaint and the notice of investigation to add Wuxi Kama Power Co. Ltd. as a respondent to the investigation. No party petitioned for review of Order No. 6, and the Commission has determined not to review it.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

By order of the Commission.

Issued: February 23, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3587 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–556]

In the Matter of Certain High-Brightness Light Emitting Diodes and Products Containing Same; Notice of Commission Decision To Review-in-Part a Final Initial Determination Finding a Violation of Section 337 and To Grant a Motion To Strike

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part a final initial determination (''ID'') of the presiding administrative law judge (''ALJ'') finding a violation of section 337 by the respondent's products in the above-captioned investigation. The Commission has also granted respondent's motion to strike complainant's arguments that are based on evidence that was excluded by the ALJ.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 8, 2005, based on a complaint filed by Lumileds Lighting U.S., LLC (''Lumileds'') of San Jose, California. 70 FR 73026. The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain high-brightness light emitting diodes (''LEDs'') and products containing same by reason of infringement of claims 1 and 6 of U.S. Patent No. 5,008,718 (''the '718 patent''); claims 1–3, 8–9, 16, 18, and 23–28 of U.S. Patent No. 5,376,580 (''the '580 patent''); and claims 12–16 of U.S. Patent No. 5,502,316 (''the '316 patent''). The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named Epistar Corporation (''Epistar'') of Hsinchu, Taiwan, and United Epitaxy Company (''UEC'') of Hsinchu, Taiwan as respondents.

On April 28, 2006, Lumileds moved to amend the complaint to: (1) Remove UEC as a named respondent, (2) change the complainant's full name from Lumileds Lighting U.S., LLC to Philips Lumileds Lighting Company LLC (''Philips''), and (3) identify additional Epistar LEDs alleged to infringe one or more patents-in-suit. Neither respondent opposed the motion.

On May 15, 2006, the Commission issued a notice determining not to review an ID (Order No. 14) granting the complainant's motion for partial summary determination to dismiss

Epistar's affirmative defense that the '718 claims are invalid.

On August 2, 2006, the still pending motion to amend the complaint was discussed with the parties during the prehearing conference, and the evidentiary hearing was held from August 2–11, 2006. On October 23, 2006, the ALJ issued an ID (Order No. 29) granting Lumileds' motion to amend the complaint, and further ordering that the Notice of Investigation be amended to identify Philips as the complainant and to remove UEC as a named respondent. On November 13, 2006, the Commission published a notice determining not to review Order No. 29. 71 F R 66195.

On December 13, 2006, the Commission issued a notice determining not to review an ID (Order No. 31) extending the target date for this investigation to May 8, 2007, and the deadline for the ALJ's final initial determination to January 8, 2007.

On January 8 and 11, 2007, the ALJ issued his final ID and recommended determinations on remedy and bonding, respectively. The ALJ found a violation of section 337 based on his findings that the respondent's accused products infringe one or more of the asserted claims of the patents at issue. On January 22, 2007, the complainant and the respondent each filed a petition for review of the final ID. On January 29, 2007, all parties, including the Commission investigative attorney, filed responses to the petitions for review.

Upon considering the parties' filings, the Commission has determined to review-in-part the ID. Specifically, with respect to the '718 patent, the Commission has determined to review claim construction of the terms ''substrate'' and ''semiconductor substrate'' in claims 1 and 6, and the ALJ's determination that Epistar's GB I, GB II, OMA I, and OMA II LEDs do not infringe the '718 patent. With respect to the '580 and '316 patents, the Commission has determined to review claim construction of the term ''wafer bonding'' in claims 1–3, 8–9, 16, 18, 23–25, 27 and 28 of the '580 patent and claims 12–14 and 16 of the ''316 patent. The Commission has determined not to review the remainder of the ID. On January 25, 2007, the respondent filed a motion to strike certain portions of complainant's petition for review. The Commission has determined to grant this motion to the extent that it concerns arguments that are based on evidence excluded by the ALJ.

On review, with respect to violation, the parties are requested to submit briefing limited to the following issues: the ALJ's addition of the limitation ''must also be a material that provides adequate mechanical support for the LED device'' to the construction of the term ''substrate,'' and the implications of this addition for the infringement analysis. In addressing these issues, the parties are requested to cite relevant authority.

In connection with the final disposition of this investigation, the Commission may issue an order that results in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see In the Matter of Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

When the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The written submissions reference above should be concise and thoroughly referenced to the record in this investigation. Also, parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should be no more than twenty-five (25) pages and should address the recommended determination by the ALJ on remedy and bonding. The complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the patents at issue expire and the HTSUS numbers under which the accused products are imported. All of the written submissions and proposed remedial orders must be filed no later than close of business on March 5, 2007. Reply submissions must be filed no later than the close of business on March 12. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in sections 210.42–46 of the Commission's Rules of Practice and Procedure, 19 CFR 210.42–46.

Issued: February 22, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3541 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–565]

In the Matter of Certain Ink Cartridges and Components Thereof; Notice of a Commission Determination Not to Review an Initial Determination Amending the Complaint and Notice of Investigation to Add a Respondent and Then Terminating the Respondent on the Basis of a Settlement Agreement, Consent Order Stipulation and Consent Order; Issuance of Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') in the above-captioned investigation amending the complaint and notice of investigation to add a respondent and then terminating the investigation with respect to that respondent on the basis of a settlement agreement, consent order stipulation, and consent order.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of the public version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Oregon; Epson America, Inc. of California; and Seiko Epson Corporation of Japan. 71 FR 14720 (March 23, 2006). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof by reason of infringement of claim 7 of U.S. Patent No. 5,615,957; claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439; claims 83 and 84 of U.S. Patent No. 5,158,377; claims 19 and 20 of U.S. Patent No. 5,221,148; claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472; claim 1 of U.S. Patent No. 5,488,401; claims 1–3 and 9 of U.S. Patent No. 6,502,917; claims 1, 31, and 34 of U.S. Patent No. 6,550,902; claims 1, 10, and 14 of U.S. Patent No. 6,955,422; claim 1 of U.S. Patent No. 7,008,053; and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents 24 companies located in China, Germany, Hong Kong, Korea, and the United States. The ALJ set June 25, 2007, as the target date for completion of the investigation.

On January 9, 2007, complainants and proposed respondent Rhinotek Computer Products, Inc. (''RCPI'') filed a joint motion seeking to amend the complaint and notice of investigation to add RCPI as a respondent in the investigation and then to terminate the investigation with respect to RCPI based upon a settlement agreement, consent order stipulation, and proposed consent order. RCPI is the successor-in-interest to respondent Gerald Chamales Corporation (d/b/a/ Rhinotek Computer Products). The Commission investigative attorney supported the motion in a response dated January 26, 2007. No other parties responded to the motion.

On January 30, 2007, the ALJ issued the subject ID (Order No. 30) amending the complaint and notice of investigation to add RCPI to the investigation and then terminating the investigation with respect to RCPI on the basis of a settlement agreement, consent order stipulation, and proposed consent order. No petitions for review of the ID were filed and the Commission has determined not to review the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rules 210.14, 210.21 and 210.42, 19 CFR 210.14, 210.21, 210.42.

Issued: February 22, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3537 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–919 and 920 (Review)]

Welded Large Diameter Line Pipe From Japan and Mexico

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on welded large diameter line pipe from Japan and Mexico.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on welded large diameter line pipe from Japan and Mexico would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 22, 2007.

FOR FURTHER INFORMATION CONTACT: Dana Lofgren (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On February 5, 2007, the Commission determined that both the domestic interested party group response and the respondent group

response to its notice of institution (71 FR 64294, November 1, 2006) of the subject five-year reviews were adequate. Accordingly, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act (72 FR 6746, February 13, 2007). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these reviews will be placed in the nonpublic record on July 9, 2007, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on July 26, 2007, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 18, 2007. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 23, 2007, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is July 18, 2007. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is August 21, 2007; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before August 21, 2007. On September 24, 2007, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before September 26, 2007, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: February 23, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3542 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–493 (Remand)]

In the Matter of Certain Zero-Mercury-Added Alkaline Batteries, Parts Thereof, and Products Containing Same; Notice of Commission Decision To Terminate Remanded Investigation With a Finding of No Violation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned remanded investigation with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Christal Sheppard, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2301. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade

Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 2, 2003, based on a complaint filed by Energizer Holdings, Inc. and Eveready Battery Company, Inc. (collectively, ''EBC''), both of St. Louis, Missouri. 68 FR 32771 (June 2, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1–12 of U.S. Patent No. 5,464,709 (''the '709 patent''). The complaint and notice of investigation named 26 respondents and were later amended to include an additional firm as a respondent. The investigation has been terminated as to claims 8–12 of the '709 patent. Several respondents have been terminated from the investigation for various reasons.

On October 1, 2004, the Commission issued notice in the original investigation that it had determined to terminate the investigation with a finding of no violation of section 337 on the basis that the asserted claims of the '709 patent were invalid for indefiniteness. EBC appealed the Commission's final determination to the U.S. Court of Appeals for the Federal Circuit (''Federal Circuit''). On January 25, 2006, the Federal Circuit issued its decision in the appeal, reversing the Commission's final determination and remanding the investigation to the Commission. *Energizer Holdings, Inc.* v. *International Trade Commission,* 435 F.3d 1366 (Fed. Cir. 2006). The Federal Circuit issued its mandate on March 20, 2006. On April 14, 2006, the Commission issued an order directing all parties to the investigation to provide comments on how this investigation should proceed, including comments on whether and to what extent the investigation should be remanded to the ALJ.

Having considered the record in this investigation, including the comments received pursuant to the Commission's order of April 14, 2006, the Commission has determined to terminate this investigation with a finding of no violation of section 337. Specifically, the Commission has determined that the asserted claims are invalid for failure to meet the written description requirement and that, if valid, they are not infringed by respondents' products. Vice Chairman Aranoff and Commissioner Lane dissented from the Commission's final determination.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.41–.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.41–.51).

Issued: February 23, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–3583 Filed 2–28–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulation and Order Pursuant to Safe Drinking Water Act and Resource Recovery and Conservation Act

Notice is hereby given that on February 12, 2007, a proposed settlement in *United States* v. *Martin Ain,* Civil No. 04–2912, has been lodged with the United States District Court for the Eastern District of New York.

In this action, the United States sued Ain for violations of the Safe Drinking Water Act (''SDWA''), 42 U.S.C. 300h, *et seq.,* and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (''RCRA''), 42 U.S.C. 6901 *et seq.,* in connection with the injection of fluids into wells on a property located at 257/259 Main Street, Town of Hempstead, New York, the failure to determine if contaminated soils and sludges were hazardous wastes and the failure to respond adequately to U.S. Environmental Protection Agency information requests. Ain has come into compliance with SDWA and RCRA. The settlement requires Ain to pay a civil penalty of $80,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the settlement. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *U.S.* v. *Martin Ain,* D.J. Ref. 90–5–1–1–07662.

The settlement may be examined at the Office of the United States Attorney, Eastern District of New York, 610 Federal Plaza, Central Islip, New York 11722, and at the Region II Office of the U.S. Environmental Protection Agency, Region II Records Center, 290 Broadway, 17th Floor, New York, NY 10007–1866. During the public comment period, the settlement may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the settlement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $2.00 (25 cents per page production cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 07–908 Filed 2–28–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on February 20, 2007, a Consent Decree in *United States of America* v. *FMC Corporation,* Civil Action No. 05–5663, was lodged with the United States District Court for the Eastern District of Pennsylvania.

The proposed consent decree with FMC Corporation (''FMC'') resolves the claims of the United States on behalf of EPA against FMC for past response costs under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), in connection with the East Tenth Street Superfund Site (''Site'') in Marcus Hook, Delaware County, Pennsylvania.

Pursuant to the consent decree, FMC will reimburse $600,000 of EPA's past response costs, and will receive a covenant not to sue from EPA for past response costs as set forth in the consent decree.

The consent decree also resolves the potential claims of defendant FMC against the United States for Matters Addressed, which is defined to include past and future response costs of EPA and FMC but not natural resource damages. It resolution of such claims, the United States will pay FMC $283,779 from the judgment fund, on behalf of the Department of Commerce and the General Services Administration (''Settling Federal Agencies'') and any other successors to the War Production Board.

The consent decree also contains mutual covenants among EPA and the Settling Federal Agencies concerning their responsibilities and claims as to each other at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to this proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, Attention; Nancy Flickinger (EES) and Michael Schon (EDS), and should refer to *United States of America* v. *FMC Corporation*, Civil Action No. 05–5663, D.J. Ref. 90–11–3–06583/1.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Eastern District of Pennsylvania, 615 Chesnut Street, and at U.S. EPA Region III's Office, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the consent decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.htm.* A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost for a full copy) payable to the U.S. Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 07–907 Filed 2–28–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 23, 2007.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained at *http://www.reginfo.gov/public/do/PRAMain*, or contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *Mills.Ira@dol.gov.*

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for U.S. Department of Labor/Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title: Quick Turnaround Surveys on Workforce Act Implementation.

OMB Number: 1205—0436.

Frequency: On occasion.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, and State, Local, or Tribal Government.

Type of Response: Reporting.

Number of Respondents: 5,000.

Annual Responses: 5,000.

Average Response time: 90 minutes.

Total Annual Burden Hours: 7,500.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: Quick turnaround surveys fill a critical gap in the ETA's information needs about how the workforce system is unfolding and inform development of legislation, regulations and technical assistance.

Ira L. Mills,

Departmental Clearance Officer/ Team Leader.

[FR Doc. E7–3545 Filed 2–28–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 23, 2007.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: PTE 88–59—Residential Mortgage Financing Arrangements Involving Employee Benefit Plans.

OMB Number: 1210–0095.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Private Sector: Business or other for-profits.

Estimated Number of Respondents: 1,785.

Estimated Number of Annual Responses: 8,925.

Estimated Total Burden Hours: 744.

Estimated Total Annualized capital/ startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Prohibited Transaction Exemption (PTE) 88–59 provides an exemption from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986 for transactions in which an employee benefit plan provides mortgage financing to purchasers of residential dwelling units, provided specified conditions are met. Among other conditions, PTE 88–59 requires that adequate records pertaining to exempted transactions be maintained for the duration of the pertinent loan.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–3546 Filed 2–28–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 15, 2007.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: king.darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not a toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension without change of currently approved collection.

Title: Certification By School Official.

OMB Number: 1215–0061.

Form Number: CM–981.

Frequency: Annually.

Type of Response: Reporting.

Affected Public: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Number of Annual Responses: 400.

Estimated Average Response Time: 10 minutes.

Estimated Total Annual Burden Hours: 67.

Total Estimated Annualized capital/ startup costs: $0.

Total Estimated Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: CM–981 is completed by a school official to verify whether a Black Lung beneficiary's dependent, aged 18 to 23, qualifies as a full-time student.

Agency: Employment Standards Administration.

Type of Review: Extension without change of currently approved collection.

Title: Davis-Bacon and Related Acts/ Contract Work Hours and Safety Standards Act Reporting Requirements—Regulations, 29 CFR part 5.

OMB Number: 1215–0140.

Frequency: On occasion.

Type of Response: Reporting.

Affected Public: Business and other for-profit and Federal Government.

Estimated Number of Respondents: 3,006.

Estimated Number of Annual Responses: 3,006.

Estimated Average Response Time: 15 minutes for conformance reports and 1 hour for requests to approve unfunded fringe benefit plans.

Estimated Total Annual Burden Hours: 756.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/ maintaining systems or purchasing services): $1,263.

Description: Regulations 29 CFR Part 5 prescribe labor standards for federally financed and assisted construction contracts subject to the Davis-Bacon Act (DBA), 40 U.S.C. 3141 *et seq.*, the Davis-Bacon Related Acts (DBRA), and labor standards for all contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA), 40 U.S.C. 3701 *et seq.* The DBA and DBRA require payment of locally prevailing wages and fringe benefits, as determined by the Department of Labor (DOL), to laborers and mechanics on most federally financed or assisted construction projects. See 40 U.S.C. 3142(a) and 29 CFR 5.5(a)(1). The CWHSSA requires the payment of one and one-half times the basic rate of pay for hours worked over forty in a week on most federal contracts involving the employment of

laborers or mechanics. See 40 U.S.C. 3702(c) and 29 CFR 5.5(b)(1). The requirements of this information collection consist of: (A) reports of conformed classifications and wage rates, and (B) requests for approval of unfunded fringe benefit plans.

A. *Conformance Reports (29 CFR 5.5(a)(1)(ii)):* DBA section 1(a) provides that every contract subject to the DBA must contain a provision (a wage determination) stating the minimum wages and fringe benefits to be paid the various classes of laborers and mechanics employed on the contract. See 40 U.S.C. 3141(c)(1) and 29 CFR 5.5(a)(1)(i). This requirement necessitates a method for establishing minimum rates for classes of employees omitted from wage determinations, primarily due to wage data being unavailable; therefore, regulations 29 CFR 5.5(a)(1)(ii) requires that any class of laborer or mechanic not listed in the wage determination that is to be employed under the contract shall be classified in conformance with the wage determination. A report of the conformance action (or, where there is disagreement among the parties, the questions and views of all parties) shall be submitted through the contracting officer to DOL for review and approval. 29 CFR 5.5(a)(3)(i).

B. *Unfunded Fringe Benefit Plans (29 CFR 5.5(a)(1)(iv)):* The DBA provides that ''wages'' may include ''costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers or mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program.'' 40 U.S.C. 3141(2)(B)(ii). Where a benefit plan is not of the conventional type described in the DBA and/or common in the construction industry that is established under a customary fund or program, it is necessary to determine from the circumstances whether the benefit is bona fide, as required by the DBA; thus, regulations 29 CFR 5.5(a)(1)(iv) provides for contractors to request approval of unfunded fringe benefit plans.

Agency: Employment Standards Administration.

Type of Review: Extension without change of currently approved collection.

Title: Claim for Compensation by Dependents Information Reports.

OMB Number: 1215–0155.

Frequency: On occasion and Annually.

Type of Response: Reporting.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,880.

Form/letter	Estimated number of annual responses	Average response time	Estimated annual burden hours
CA–5	150	90	225
CA–5b	20	90	30
CA–1031	150	15	37
CA–1074	10	60	10
Student/Dependency	1,050	30	525
Comp Due at Death	500	30	250
Total	1,880	.....	1,077

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $452.

Description: These reports request information from the survivors of deceased Federal employees which verify dependents status when making a claim for benefits and on a periodic basis in accepted claims. Some of the forms are used to obtain information on claimed dependents in disability cases.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–3547 Filed 2–28–07; 8:45 am]

BILLING CODE 4510–CN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Hope Lake Investors, LLC/Cortland, New York.

Principal Product: The loan, guarantee, or grant application is to finance the building of a hotel with health spa, water park, and restaurant. The NAICS industry codes for this enterprise are: 721110 Hotels (except Casino Hotels) and Motels; 713110 Amusement and Theme Parks; and, 722110 Full-Service Restaurants.

DATES: All interested parties may submit comments in writing no later than March 15, 2007. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail *Dais.Anthony@dol.gov;* or transmit via fax 202–693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR part 75, authorizes the United States Department of Agriculture (USDA) to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training

Administration (ETA) within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Dated at Washington, DC this 22nd day of February, 2007.

Gay M. Gilbert,

Administrator, Office of Workforce Investment, Employment and Training Administration.

[FR Doc. E7–3544 Filed 2–28–07; 8:45 am]

BILLING CODE 4510–FN–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

Certification Regarding Rights to Unemployment Benefits; OMB 3220–0079. Under Section 4 of the Railroad Unemployment Insurance Act (RUIA), an employee who leaves work voluntarily is disqualified for unemployment benefits unless the employee left work for good cause and is not qualified for unemployment benefits under any other law. RRB Form UI–45, Claimant's Statement—Voluntary Leaving of Work, is used by the RRB to obtain the claimant's statement when it is indicated by the claimant, the claimant's employer, or another source that the claimant has voluntarily left work. The RRB proposes a minor non-burden impacting editorial change to Form UI–45.

Completion of Form UI–45 is required to obtain or retain benefits. One response is received from each respondent. The completion time for Form UI–45 is estimated at 15 minutes per response. The RRB estimates that approximately 2,900 responses are received annually.

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. E7–3576 Filed 2–28–07; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27739]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

February 23, 2007.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of February, 2007. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 20, 2007, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer'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, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Eagle Growth Shares Investing Programs [File No. 811–2018]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On November 27, 2001, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $2,145 incurred in connection with the liquidating distribution were paid by Baxter Financial Corp., applicant's sponsor, and Eagle Growth Shares, Inc.

Filing Dates: The application was filed on October 20, 2006, and amended on January 26, 2007.

Applicant's Address: Federated Investors Tower, 5800 Corporate Dr., Pittsburgh, PA 15237-1200 North Federal Hwy., Suite 424, Boca Raton, FL 33432.

Credit Suisse Institutional Fixed Income Fund, Inc. [File No. 811–8917]

Credit Suisse Small Cap Growth Fund, Inc. [File No. 811–7909]

Credit Suisse Fixed Income Fund [File No. 811–5039]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Between November 29, 2006 and December 22, 2006, each applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $8,500 incurred in connection with each liquidation were paid by Credit Suisse Asset Management, LLC, investment adviser to each applicant. Applicants have retained cash in the amount of $32,472, $22,334 and $106,421, respectively, to cover certain additional outstanding liabilities.

Filing Date: The applications were filed on February 7, 2007.

Applicants' Address: c/o Credit Suisse Asset Management, LLC, Eleven Madison Ave., New York, NY 10010.

Federated Municipal High Yield Advantage Fund, Inc. [File No. 811–4533]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 10, 2006, applicant transferred its assets to Federated Municipal High Yield Advantage Fund, a portfolio of Federated Municipal Securities Income Trust, based on net asset value. Expenses of $86,399 incurred in connection with the reorganization were

paid by applicant and the acquiring fund.

Filing Date: The application was filed on January 16, 2007.

Applicant's Address: Federated Investors Tower, 5800 Corporate Dr., Pittsburgh, PA 15237–7010.

Pioneer Tax Qualified Dividend Fund [File No. 811–21459]

Pioneer International Income and Growth Trust [File No. 811–21535]

Pioneer Municipal High Yield Trust [File No. 811–21717]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants have never made a public offering of their securities and do not propose to make a public offering or engage in business of any kind.

Filing Date: The applications were filed on February 6, 2007.

Applicants' Address: 60 State St., Boston, MA 02109.

Liberty All-Star Mid-Cap Fund [File No. 811–21733]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on December 29, 2006, and amended on February 2, 2007.

Applicant's Address: 100 Federal St., Boston, MA 02110.

Ameritrade Automatic Common Exchange Security Trust [File No. 811–9319]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on December 5, 2006, and amended January 31, 2007.

Applicant's Address: Attn: Heather Sahrbeck, Goldman, Sachs & Co., 85 Broad St., New York, NY 10004.

Pioneer AllWeather Fund LLC [File No. 811–21408]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on October 27, 2004, and amended on February 6, 2007.

Applicant's Address: 60 State St., Boston, MA 02109.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3555 Filed 2–28–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55336; File No. SR–ISE–2006–59]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Foreign Currency Options

February 23, 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 September 29, 2006, 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. On February 23, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[3] 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 ISE is proposing to adopt rules for the listing and trading of cash-settled foreign currency options (''FCOs'') on the following currencies: the euro, the British pound, the Australian dollar, the New Zealand dollar, the Japanese yen, the Canadian dollar, the Swiss franc, the Chinese renminbi, the Mexican peso, the Swedish krona, the Russian ruble, the South African rand, the Brazilian real, the Israeli shekel, the Norwegian krone, the Polish zloty, the Hungarian forint, the Czech koruna, and the Korean won (individually, a ''Currency'' and collectively, the ''Currencies''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.iseoptions.com*), at the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 the proposed rule change is to adopt rules enabling the Exchange to list and trade FCOs. The Exchange proposes to adopt rules for the listing and trading of cash-settled FCOs on the following currencies: the euro, the British pound, the Australian dollar, the New Zealand dollar, the Japanese yen, the Canadian dollar, the Swiss franc, the Chinese renminbi, the Mexican peso, the Swedish krona, the Russian ruble, the South African rand, the Brazilian real, the Israeli shekel, the Norwegian krone, the Polish zloty, the Hungarian forint, the Czech koruna and the Korean won.[4] FCOs would, in all other respects, be traded pursuant to the Exchange's trading rules and procedures and be covered under the Exchange's existing surveillance program. The Exchange notes that the Philadelphia Stock Exchange (''PHLX'') currently has rules that permit the listing and trading of both physically-settled FCOs[5] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange: (1) Reduced the number of currencies on which the Exchange proposes to list and trade cash-settled FCOs; (2) amended the position limit amounts for the currencies that are proposed in this Amendment No.1; (3) removed the listing and trading of foreign currency options that expire in weekly intervals from the proposed rule text; (4) made certain non-substantive changes to the proposed rule text; and (5) adopted a margin rule similar to Commentary .16 of the Philadelphia Stock Exchange's Rule 722. Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] The Exchange is proposing to trade cash-settled FCOs only on those currencies whose futures contracts, and options on such futures contracts, are currently traded on the Chicago Mercantile Exchange (''CME'').

[5] Unlike cash-settled FCOs, a physically-settled FCO gives its owner the right to receive physical

U.S. Dollar-settled FCOs on a number of foreign currencies.[6] FCOs listed and traded by the Exchange pursuant to this proposed rule change will not be fungible with those listed and traded by PHLX.

The Exchange proposes to list and trade cash-settled FCOs using the Reuters Composite Currency Rate,[7] an industry benchmark, and modify that rate to create an underlying value that represents the prevailing rate of a currency pair in an index-like format. ISE proposes to use modifiers of 1, 10, or 100 depending on the exchange rate level of the underlying foreign currency.[8] For example, if one U.S. Dollar buys .84177 euros, a modifier of 100 would be used so that the modified exchange rate would become 84.18. Modified exchange rates are rounded to two decimal places (*i.e.*, to the nearest one one-hundredth). Modified exchange rates are rounded up if they end in values greater than or equal to five one-thousandths, and rounded down if less than five one-thousandths. In the example above, if one U.S. Dollar buys .84174 euros, the modified exchange rate, using the same 100 modifier, would become 84.17. The Reuters data is based on an amalgamation of midpoint dealer quotes on its foreign exchange dealing system.

Under the proposed rule change, FCOs listed by the Exchange will be cleared by The Options Clearing Corporation (''OCC''), and will enable holders of options contracts to receive U.S. Dollars representing the difference between the modified exchange rate[9] and the exercise price of the option. Specifically, upon exercise of an in-the-money cash-settled FCO call option, the holder will receive, from OCC, U.S. Dollars representing the difference between the exercise strike price and the closing settlement value of the cash-settled FCO contract multiplied by 100. Upon exercise of an in-the-money cash-settled FCO put option, the holder will receive, from OCC, U.S. Dollars representing the excess of the exercise price over the closing settlement value of the cash-settled FCO contract multiplied by 100. Additionally, cash-settled FCOs that are in-the-money by any amount on expiration date will be exercised automatically by OCC, while cash-settled FCOs that are out-of-the-money on expiration date will expire worthless.

The Exchange hereby proposes to adopt new rules and amend certain existing rules in order to list and trade FCOs. The Exchange has also attached an exhibit to this proposed rule change that illustrates the contract specifications applicable to FCOs. The Exchange's proposed ISE Rule 2201, Definitions, defines terms applicable to FCOs. Proposed ISE Rule 2202, Criteria for Foreign Currency Options, states that the Currencies may be approved for trading on the Exchange. Proposed ISE Rule 2202 also states that if any of the sovereign governments or the European Economic Community's European Monetary System issuing one of the Currencies replaces it with a new currency, that new currency, subject to filing a proposed rule change with the Commission, shall also be approved for listing and trading under these proposed rules.

Proposed ISE Rule 2203, Foreign Currency Options Contracts To Be Traded, states that the Exchange may open for trading put options and call options on the Currencies and that only options contracts of a series of options approved by the Exchange and currently open for trading may be traded on the Exchange. Proposed ISE Rule 2204, Withdrawal of Approval of Foreign Currency Options, states that, in the interest of a fair and orderly market and for the protection of investors, the Exchange may withdraw approval of the trading of a foreign currency option. For example, in the case of the European Economic Community's European Monetary System, the Exchange will withdraw approval of the trading of a foreign currency option if such currency is eligible to and does in fact merge with the euro.

Proposed ISE Rule 2205, Series of Foreign Currency Options Opened for Trading, states that after a class of options contracts on any of the Currencies has been approved for listing and trading, the Exchange may open for trading series of FCOs that expire in consecutive monthly intervals, in three or ''cycle'' month intervals, or that have up to 36 months to expiration.[10] Under this proposed rule change, the Exchange may list cash-settled FCOs with expirations that are the same as the expirations permitted for index options pursuant to ISE Rules 2000 and 2001, except that cash-settled FCOs shall have expirations up to 36 months only. Though no long-term series will be listed initially, this proposal would allow the Exchange to list long-term series, *i.e.*, up to 36 months. The expiration date for the consecutive and cycle month options will be 11:59 p.m. Eastern time on the Saturday immediately following the third Friday of the expiration month. Under Proposed ISE Rule 2205, as the modified exchange rate moves, the Exchange may list additional series of FCOs in order to maintain sufficient numbers of in-the-money and out-of-the-money series. Further, the strike price of each series of FCOs opened for trading by the Exchange shall be reasonably close to the modified exchange rate.

Proposed ISE Rule 2206, Terms of Foreign Currency Options Contracts, states that, among other things, all FCOs shall be quoted in U.S. Dollars, shall be European-style, and that the interval between strike prices of series of FCOs shall be no less than $0.10. Additionally, under the Exchange's current rules, the minimum trading increment for a FCO contract trading at less than $3.00 will be $0.05, and for a FCO contract trading at $3.00 or higher, the minimum trading increment will be $0.10.

Proposed ISE Rule 2207, Dissemination of Information, states that the Exchange shall ensure that the current modified exchange rate is disseminated at least once every fifteen seconds by the Options Price Reporting Authority (''OPRA'') or one or more major market data vendors during the time FCOs are traded on the Exchange. The Exchange will also disseminate FCO quotes and trades over OPRA.

delivery (if it is a call) or to make physical delivery (if it is a put), of the underlying foreign currency when the option is exercised.

[6] *See* Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR–PHLX–2006–34). *See also* PHLX Rules 1000–1093.

[7] The Exchange notes that there are many major trading platforms for spot market currencies including single bank portals (Deutsche Bank, Citigroup, UBS, Barclays, etc.), multi-bank portals (FXall, Currenex, FXConnect, etc.), broker-neutral portals (Reuters Dealing and EBS), portal aggregators (Bloomberg, LavaFX, FlexTrade), as well as many online broker portals. Additionally, several major ISE members, including OptionsXpress and Interactive Brokers, provide access to CME futures products. ISE therefore believes that sufficient market access is available to both institutional as well as retail investors. Foreign exchange prices are also widely available via public websites, broker websites, as well as in print publications. Additionally, websites such as Bloomberg.com, Reuters.com, Yahoo! Finance, CNBC.com, OANDA.com, Nasdaq.com, and many others provide free currency data. Investors Business Daily, Wall Street Journal, and the New York Times also provide currency data as part of their daily coverage. Furthermore, ISE will disseminate real-time underlying data on OPRA for all the currency rates it intends to list options on.

[8] *See* Exhibit 3 to the proposed rule change (listing the modifiers for each Currency pair). Modifiers used for creating underlying values will also be posted on the Exchange's website no later than the first day on which FCOs begin trading on ISE. Once a modifier has been assigned to a currency pair, it can only be changed upon a filing of a proposed rule change with the Commission.

[9] A ''modified exchange rate'' is defined in proposed ISE Rule 2201(8).

[10] The Exchange notes that consecutive month and cycle month expirations of a given series will never overlap.

Proposed ISE Rule 2208, Position Limits for Foreign Currency Options, sets the position limit for FCOs, on the same side of the market, as follows: 1,200,000 contracts for the euro; 600,000 contracts for the Australian dollar, the British pound, the Canadian dollar, the Israeli shekel, the Japanese yen, the Swedish krona and the Swiss franc; 300,000 contracts for the Brazilian real, the Chinese renminbi, the Czech koruna, the Hungarian forint, the Korean won, the Mexican peso, the New Zealand dollar, the Norwegian krone, the Polish zloty, the Russian ruble and the South African rand. For the purpose of determining which positions are on the same side of the market, under Proposed ISE Rule 2208, long call positions are to be aggregated with short put positions and short call positions are to be aggregated with long put positions.

Proposed ISE Rule 2209, Exercise Limits for Foreign Currency Options, generally states that exercise limits for FCOs shall be equivalent to the position limits prescribed to that FCO. Thus, the exercise limit for FCOs over any five consecutive business days shall be as follows: 1,200,000 contracts for the euro; 600,000 contracts for the Australian dollar, the British pound, the Canadian dollar, the Israeli shekel, the Japanese yen, the Swedish krona and the Swiss franc; 300,000 contracts for the Brazilian real, the Chinese renminbi, the Czech koruna, the Hungarian forint, the Korean won, the Mexican peso, the New Zealand dollar, the Norwegian krone, the Polish zloty, the Russian ruble and the South African rand. Under Proposed ISE Rule 2209, the Exchange may from time to time, subject to Commission approval, establish exercise limits that are different from the position limits established for FCOs on a Currency or across all Currencies.

Proposed ISE Rule 2210, Trading Sessions, provides that transactions in FCOs may be effected on the Exchange between the hours of 9:30 a.m. and 4:15 p.m. Eastern Time, except that on the last trading day of the week during which a FCO is set to expire, trading shall cease at 12 p.m. Eastern Time. Trading in cash-settled FCOs will follow the holiday schedule of the U.S. equity markets. If Friday is an Exchange holiday, the settlement value for cash-settled FCOs will be determined on the preceding trading day, which will also be the last trading day for the expiring option. The Exchange's Proposed Rules 2210(b) and (c) make certain adjustments to current processes because FCO openings, unlike openings of equity and index options, do not depend on the opening of trading of the underlying market, because the currency market does not have specified trading hours. Accordingly, the opening rotation for FCOs shall be held at or as soon as practicable after the Exchange's market opens, unless an Exchange official determines to delay the opening rotation in the interest of maintaining a fair and orderly market. Proposed ISE Rule 2210 lists some of the factors an Exchange official may consider in delaying the opening rotation. Additionally, in the interest of a fair and orderly market, an Exchange official may, under certain circumstances, halt or suspend trading in a FCO until such time that the circumstances that led to the halt or suspension no longer exist.

Proposed ISE Rule 2211, Reporting of Foreign Currency Options Position, requires each Member of the Exchange to file a report with respect to all accounts that have an aggregate position of 12,500 or more FCO contracts on the same side of the market in any underlying foreign currency. Under this proposed rule, Members shall be required to file all such reports within one business day following the day that the reportable transactions occur.

Proposed ISE Rule 2212, Foreign Currency Options Closing Settlement Value, states that the closing settlement value, which shall be posted by the Exchange on its Web site, shall be the Noon Buying Rate, as determined by the Federal Reserve Bank of New York, on the last trading day during expiration week.[11] If the Noon Buying Rate is not announced by 2 p.m. Eastern Time, the closing settlement value will be the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances.[12]

In the event the Noon Buying Rate is not published for an underlying currency, the Exchange proposes to apply the WM/Reuters Closing Spot rate to determine the closing settlement value of any underlying currency.[13] The WM/Reuters Closing Spot rate is determined at 16:00 UK time, also known as the 'fix' time (1 p.m., New York time). WM/Reuters typically publishes its closing rates 15 minutes after the fix time. The Reuters System is the primary source of spot foreign exchange rates used in the calculation of the WM/Reuters Closing Spot rate. WM/Reuters, however, may use alternative sources such as a country's Central Bank or rates from EBS, which is another major FX venue and market data service provider for 156 currencies, including all of the currencies underlying the products proposed by ISE under this filing.

WM/Reuters has two main methods for calculating its Closing Spot rate. The methodology used depends on whether a currency is determined by WM/Reuters to be a ''trade currency'' or a ''non-trade currency.'' [14] WM/Reuters applies a unique methodology for each category. Closing Spot rates for ''non-trade currencies'' are determined primarily by using data from Reuters. This methodology involves taking snapshots of quoted bids and offers for each currency at 15-second intervals over a two minute period. The median is then calculated independently for each currency's bid and offer. The midpoint of that median bid and offer becomes the final value.

Closing Spot rates for ''trade currencies'' are determined primarily by using data from both Reuters and EBS. This methodology involves taking snapshots of actual traded rates every second for a period of 30 seconds before the fix to 30 seconds after the fix. Trades are identified as a bid or offer and a spread is applied to calculate the opposite bid or offer. The spread applied is determined by the spread between buy and sell orders captured at the same time. The median is then independently calculated for each currency's bid and offer, resulting in a

[11] The closing settlement value, whether based on the Noon Buying Rate or the WM/Reuters Closing Spot rate, will also be modified using the applicable modifier, *i.e.*, 1, 10 or 100, that is used in calculating the respective modified exchange rate.

[12] The Exchange may use the WM/Reuters Closing Spot rate if the Noon Buying Rate is not available. The Exchange notes that the Commission has recently approved listing standards for securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interests in non-U.S. currency deposited into a trust that utilizes the Noon Buying Rate for the calculation of the Net Asset Value of the trust. *See* Securities Exchange Act Release No. 52843 (November 28, 2005), 70 FR 72486 (December 5, 2005) (order granting accelerated approval of SR–NYSE–2005–65).

[13] The Federal Reserve Bank of New York currently does not publish a Noon Buying Rate for the Czech koruna, the Hungarian forint, the Israeli shekel, the Korean won, the Polish zloty and the Russian ruble. As a result, the Exchange proposes to use the WM/Reuters Closing Spot rate for these 6 currencies to determine their closing settlement value. In the event the Federal Reserve Bank of New York determines to publish a Noon Buying Rate for any of these 6 currencies in the future, the Exchange shall resort to the Noon Buying Rate in place of the WM/Reuters Composite Spot rate to determine the closing settlement value for the applicable FCO.

[14] The Australian dollar, British pound, Canadian dollar, Czech koruna, Danish krone, euro, Japanese yen, New Zealand dollar, Norwegian krone, Singapore dollar, South African rand, Swedish krona, and Swiss franc are all considered by WM/Reuters to be ''trade currencies,'' while all others are considered ''non-trade currencies.'' The instant filing proposes to trade FCOs on all the ''trade currencies'' except the Danish krone and the Singapore dollar.

midpoint trade rate. The midpoint of that median bid and offer becomes the final value.

Proposed ISE Rule 2212 additionally disclaims the Exchange's (and that of any agent of the Exchange's) liability and that of the Reporting Authority due to force majeure.

Proposed ISE Rule 2213, Market Maker Trading Licenses, creates two new classes of market makers on the Exchange, FXPMMs and FXCMMs, who shall have similar obligations as the PMMs and CMMs of the Exchange's equity and index markets. These new memberships will entitle firms to quote and trade FCOs only. Proposed ISE Rule 2213 sets out the rules and the obligations of market makers under which a FXPMM and/or FXCMM may purchase a trading license from the Exchange, subject to an annual fee paid to the Exchange in monthly installments. Under this proposed rule, market maker trading licenses, which do not hold any equity interest in the Exchange, will be sold annually through an auction conducted during the fourth quarter of each year. A firm may not hold more than four FXPMM trading licenses across all currencies and no more than one FXCMM trading license per currency pair. Additionally, market makers may not hold and act as both a FXPMM and FXCMM in the same currency pair. Market maker trading licenses will not be able to be leased or transferred, although they will be permitted to be transferred to an affiliated Member, or to another qualified Member which continues substantially the same business as the Member that currently holds the market maker trading license. Additionally, market maker trading licenses that are sold between annual auctions shall be assessed a premium of ten percent of the price at which the market maker trading license was sold during the preceding auction.[15]

Proposed ISE Rule 2213(f) relates specifically to FXPMMs and states that a FXPMM's trading license shall have a three year term and that at the end of the three year term, the incumbent FXPMM shall have the right of first refusal to match the highest bid and market quality commitment from another bidding firm, enabling that FXPMM to remain a market maker in the currency pair for which it has a trading license. Under proposed ISE Rule 2213(f), sales of FXPMM trading licenses will be conducted by a sealed bid auction and prospective FXPMMs will be required to submit both a bid amount and a market quality commitment using parameters similar to those currently used by the Exchange for ETF and index options. Proposed ISE Rule 2213(f) further states that a FXPMM that continuously fails to meet its stated market quality commitments will have its trading license terminated by the Exchange, which will subsequently conduct an auction to sell the failing FXPMM's trading license to another firm. Proposed ISE Rule 2213(f) also states that a FXPMM generally cannot terminate its trading license and that in the event a FXPMM is unable to fulfill its obligations, a backup FXPMM shall be designated by the Exchange.

Under proposed ISE Rule 2213(g), which relates specifically to FXCMMs, the Exchange intends to initially sell ten FXCMM trading licenses per currency pair, with each trading license having a term of one year. Based on market demand, the Exchange may increase the number of FXCMM trading licenses available at the next regularly scheduled auction. Proposed ISE Rule 2213(g)(2) sets out the manner in which a ''Dutch auction'' to sell FXCMM trading licenses will be conducted. A FXCMM shall have the ability to terminate its trading license prior to its scheduled expiration, so long as the FXCMM provides the requisite written notice and a pays a termination fee, as set forth in proposed ISE Rule 2213(g)(4).

The Exchange believes that the procedures under which market maker trading licenses will be made available are calculated to comply with the requirements of Section 6(b)(2) of the Act regarding fair access to the facilities of a registered exchange. The Dutch auction, by which FXCMM trading licenses will be sold, is itself a fair way to determine access, especially given that it is subject to provisions calculated to ensure that market maker trading licenses are widely available, such as the provisions (i) Specifying a reasonable minimum Reserve Price, (ii) limiting the number of market maker trading licenses that may be bid by a single Member, and (iii) the ability to sell additional unsold market maker trading licenses during the year at a 10% premium. The sealed bid auction, by which FXPMM trading licenses will be sold, requires potential bidders to provide the Exchange with market quality commitments along with a bid. The Exchange believes that this added measure of qualification will enable the Exchange to sell these market maker trading licenses in an objective manner without solely awarding a trading license to the highest bidder. The procedures under which market maker trading licenses will be made available are also intended to comply with the requirements of Section 6(b)(4) of the Act, which requires that a registered exchange provide for the equitable allocation of reasonable dues, fees, and charges among its members and issuers and other persons using its facilities. The price of a market maker trading license is reasonable because it will be determined by ''the market,'' that is, by Members that wish to obtain a market maker trading license. A Dutch auction allows its participants to themselves determine the price, while the sealed bid auction will be conducted with a relatively low Reserve Price established by the Exchange. The auctions are closely related to the way access to the Exchange was traditionally priced, with supply and demand governing the price at which memberships were purchased or leased. The pricing of market maker trading licenses between auctions is also reasonable, as it is based on the auction price, but with a premium to the auction price, which will encourage participation in the regular auctions, which in turn will strengthen the price discovery mechanism that the auctions provide.

The Exchange is also proposing to amend its Rule 1202 regarding margin requirements by adopting a rule for FCOs that is substantially similar to the PHLX's margin rules for foreign currency options. Accordingly, under proposed ISE Rule 1202(d), cash-settled FCOs will have the same customer margin requirements as are provided in PHLX Rule 722, ''Margin Accounts,'' Commentary.16.[16] Chapter 6 of the

[15] The sale of additional market maker trading licenses during the year shall be at a premium to the auction price, pro rated for the amount of time remaining for the year, in order to, among other things, ensure that the supply of market maker trading licenses is adequate to meet demand for market maker trading licenses should conditions change after an auction, and to accommodate new businesses that commence operations after the beginning of the year. The premium will help defray out-of-cycle administrative costs and encourage participation in the annual auction, thereby promoting the optimal price and quantity discovery in the auction. In accordance with proposed ISE Rule 2210(f)(7), market maker trading licenses that are sold at any time except during the fourth quarter of a calendar year shall expire either in December of the 3rd year if the auction is conducted prior to June 30th of the current year, or in December of the 4th year if the auction is conducted after June 30th of the current year. For example, a FXPMM trading license that goes into effect on June 1, 2007 will expire on December 31, 2009, for a total license period of 2 years and 7 months. A FXPMM trading license that goes into effect on August 1, 2007 will expire on December 31, 2010, for a total license period of 3 years and 5 months.

[16] Similar to PHLX Rule 722, Commentary .16, the Exchange will calculate the margin requirement for customers that assume short FCO positions by adding a percentage of the current market value of the underlying foreign currency contract to the

Continued

Exchange's rules is designed to protect public customer trading and shall apply to trading in FCOs. Specifically, ISE Rules 608(a) and (b) prohibit Members from accepting a customer order to purchase or write an option, including on a cash-settled FCO, unless such customer's account has been approved in writing by a designated Options Principal of the Member.[17] Additionally, ISE's Rule 610 regarding suitability is designed to ensure that options, including cash-settled FCOs, are only sold to customers capable of evaluating and bearing the risks associated with trading in this instrument. Further, ISE Rule 611 permits members to exercise discretionary power with respect to trading options, including trading cash-settled FCOs, in a customer's account only if the Member has received prior written authorization from the customer and the account had been accepted in writing by a designated Options Principal. ISE Rule 611 also requires designated Options Principals or Representatives of a Member to approve and initial each discretionary order, including discretionary orders for cash-settled FCOs, on the day the discretionary order is entered. Finally, ISE Rule 609, Supervision of Accounts, Rule 612, Confirmation to Customers, and Rule 616, Delivery of Current Options Disclosure Documents and Prospectus,[18] will also apply to trading in FCOs.

As previously noted, the Exchange represents that it has an adequate surveillance program in place for FCOs, and intends to apply the same program procedures that it applies to the Exchange's index options. The Exchange is also a member of the Intermarket Surveillance Group (''ISG'') under the Intermarket Surveillance Group Agreement, dated June 20, 1994, and may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG. The members of the ISG include all of the U.S. registered stock and options markets. The ISG members work together to coordinate surveillance and investigative information sharing in 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. Specifically, ISE can obtain such information from the CME in connection with futures trading on that exchange.[19]

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of cash-settled FCOs. The Exchange has provided the Commission with system capacity information that supports its system capacity representations.[20]

2. Statutory Basis

The Exchange believes that this filing is consistent with Section 6(b) under the Act,[21] in general, and furthers the objectives of Section 6(b)(1) [22] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Members and persons associated with its Members, with the provisions of the Act, the rules and regulations thereunder, and the rules of 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 written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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–ISE–2006–59 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–2006–59. 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

option premium price less an adjustment for the out-of-the-money amount of the option contract. On a quarterly calendar basis, ISE will review five-day price changes over the preceding three-year period for each underlying currency and set the add-on percentage at a level which would have covered those price changes at least 97.5% of the time (the ''confidence level''). If the results of subsequent reviews show that the current margin level provides a confidence level below 97%, ISE will increase the margin requirement for that individual currency up to a 98% confidence level. If the confidence level is between 97% and 97.5%, the margin level will remain the same but will be subject to monthly follow-up reviews until the confidence level exceeds 97.5% for two consecutive months. If during the course of the monthly follow-up reviews, the confidence level drops below 97%, the margin level will be increased to a 98% level and if it exceeds 97.5% for two consecutive months, the currency will be taken off monthly reviews and will be put back on the quarterly review cycle. If the currency exceeds 98.5%, the margin level will be reduced to a 98% confidence level during the most recent 3 year period. Finally, in order to account for large price movements outside the established margin level, if the quarterly review shows that the currency had a price movement, either positive or negative, greater than two times the margin level during the most recent 3 year period, the margin requirement will be set at a level to meet a 99% confidence level (''Extreme Outlier Test''). The Exchange will inform Members and the public of the margin levels for each currency option immediately following the quarterly reviews described in Rule 1202(d).

[17] Pursuant to ISE Rule 602, Representatives of a Member may solicit or accept customer orders for FCOs.

[18] The OCC, together with the Exchange, has prepared an amendment to the Options Disclosure Document (''ODD''), which ISE expects OCC to shortly submit to the Commission for approval. The amended ODD will include characteristics of the Exchange's FCOs and trading examples.

[19] CME is an affiliate member of ISG.

[20] *See* Letter from Michael Simon, General Counsel, ISE, to John Roeser, Assistant Director, Commission, dated February 23, 2007.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(1).

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–2006–59 and should be submitted on or before March 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3558 Filed 2–28–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55335; File No. SR–NASDAQ–2007–005]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Date for Compliance With Regulation NMS

February 23, 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 2, 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 Nasdaq. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify certain of its rules that become effective upon the compliance date for Regulation NMS under the Act. The Commission has established March 5, 2007, as the date of compliance for all automated trading centers such as Nasdaq.[5] Accordingly, Nasdaq proposes to modify its approved rules to demonstrate compliance with Regulation NMS by March 5, 2007, to conform with the Commission's scheduled compliance date. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and *http://www.nasdaq.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, 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

Nasdaq proposes to modify certain of its rules that become effective upon the compliance date for Regulation NMS under the Act. The Commission has established March 5, 2007, as the date of compliance for all automated trading centers such as Nasdaq.[6] Accordingly, Nasdaq proposes to modify its approved rules to demonstrate compliance with Regulation NMS by March 5, 2007, to conform with the Commission's scheduled compliance date.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act,[8] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change clarifies certain terms in Nasdaq's rules.

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.

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

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[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[11] However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007).

[6] *Id.*

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has decided to waive the five-day pre-filing notice requirement.

[12] *Id.*

consistent with the protection of investors and the public interest because such waiver would permit the Exchange to immediately update its rules to reflect that the compliance date for Regulation NMS has been changed to March 5, 2007. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.[13]

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–NASDAQ–2007–005 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–2007–005. 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 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–2007–005 and should be submitted on or before March 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3554 Filed 2–28–07; 8:45 am]

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[13] 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).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55337; File No. SR–NYSE–2006–04]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change as Modified by Amendment Nos. 1 and 2 Thereto Relating to NYSE Rule 116 (''Stop'' Constitutes Guarantee) and NYSE Rule 123B (Exchange Automated Order Routing Systems)

February 23, 2007.

I. Introduction

On February 9, 2006, the New York Stock Exchange LLC (f/k/a New York Stock Exchange, Inc.) (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend NYSE Rule 116 (''Stop'' Constitutes Guarantee) and NYSE Rule 123B (Exchange Automated Order Routing Systems) regarding a specialist's ability to ''stop'' stock and report such a transaction. On April 5, 2006, NYSE filed Amendment No. 1 to the proposed rule change. On September 8, 2006, NYSE filed Amendment No. 2 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on October 18, 2006.[3] The Commission received one comment regarding the proposal.[4] This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Description of the Proposal

NYSE Rule 116 provides that an agreement by a member to ''stop'' stock at a specified price constitutes a guarantee of a purchase or sale by the member of the security at that price. Paragraph .30 in the Rule's Supplementary Material provides three circumstances in which a specialist may stop stock, including: (i) At the opening or reopening of trading in a stock; (ii) when a broker in the trading crowd is representing another order at the stop price; or (iii) when requested to by another member.[5] The practice of stopping stock by specialists on the Exchange refers to a guarantee by a specialist that an order he or she receives will be executed at no worse a price than the contra side price in the market at the time the order was stopped, with the understanding that the order may in fact receive a better price.

The Exchange proposes to remove the provisions in NYSE Rule 116.30 that permit a specialist to ''stop'' stock. According to the Exchange, the practice of specialists stopping stock makes less sense in the Hybrid Market, primarily due to the dynamics of increased speed of trading and automated functioning of the market. The Exchange further stated that the procedures in NYSE Rule 116.30(3) for granting stops are not an efficient mechanism for seeking price improvement an automated market due to the time required to perform the current manual procedures.

III. Comment Summary

The Commission received one comment letter on the proposal,[6] to which NYSE has filed a response letter.[7] In the comment letter, the commenter argued the proposal is not in the public interest because the Hybrid Market, and specifically NYSE's Auction Market and Auction Limit Orders, do not provide investors with the price improvement opportunities that the NYSE's auction market did. The commenter stated that he believed that specialists in the Hybrid Market have been relieved of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54592 (October 12, 2006), 71 FR 61524.

[4] *See* letter from George Rutherfurd, Consultant, dated April 24, 2006 to Commission's rule-comments e-mail.

[5] A specialist may only stop stock when requested to by another member if certain other conditions are met. *See* Exchange Rule 116.30(3).

[6] *See* note 4 *supra*.

[7] *See* letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy M. Morris, Secretary, Commission, dated January 19, 2007.

their responsibility to obtain price improvement for orders.

In its response letter, NYSE noted that specialists are not currently obligated to stop stock and further noted that, in fact, specialists infrequently choose to stop stock. NYSE reiterated its belief that there are many opportunities for price improvement in the Hybrid Market and stated that specialists were not ''being relieved of their responsibility to obtain price improvement.'' The Exchange argued that it was eliminating a practice that its data showed was rarely used. The Exchange also argued that retaining the manual process for the specialist to stop stock would increase specialist risk if used.

The commenter also asserted that NYSE could easily reprogram its systems to replicate electronically the manual practice of stopping stock. In response, NYSE disagreed, indicating that there are difficulties inherent in maintaining the stopping stock functionality amid systems designed to enable increased automatic executions. Further, NYSE argued that the decision to remove systemic support for stopped orders was based in part on data that showed that specialists do not stop stock frequently.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[8] and, in particular, the requirements of Section 6 of the Act.[9] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange 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 securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

According to the Exchange, the practice of stopping stock by specialists is rarely used. Therefore, the Exchange decided that it would not develop an electronic, systemic process to support this little used, voluntary function. The Exchange also argued that retaining a manual process to stop stock in the Hybrid Market would be inefficient. Accordingly, the Commission finds that eliminating specialists' ability to stop stock is reasonable and consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NYSE–2006–04), as modified by Amendment Nos. 1 and 2, be, and it hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3556 Filed 2–28–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55338; File No. SR–Phlx–2007–04]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing LEAPS Pursuant to the $2.50 Strike Price Program

February 23, 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 21, 2007, 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 Phlx. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to clarify that LEAPS[5] can be listed at $2.50 strike price intervals pursuant to the $2.50 Strike Price Program set forth in Commentary .05 to Phlx Rule 1012 (Series of Options Open for Trading). There is no new rule text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx 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 proposal is to clarify that LEAPS can be listed at $2.50 strike price intervals pursuant to the $2.50 Strike Price Program.

The current $2.50 Strike Price Program is set forth in Commentary .05 to Phlx Rule 1012. The $2.50 Strike Price Program permits the Exchange to list options with $2.50 strike price intervals for selected options trading at strike prices greater than $25 but less than $75. In addition, each options exchange is permitted to list options with $2.50 strike price intervals on any option class that another options exchange selects under the $2.50 Strike Price Program.

Initially adopted in 1995 as a pilot program, the pilot $2.50 Strike Price Program allowed options exchanges to list options with $2.50 strike price intervals for options trading at strike prices greater than $25 but less than $50 on a total of up to 100 option classes.[6] In 1998, the pilot program was permanently approved and expanded to allow the options exchanges to select up to 200 option classes for the $2.50 Strike

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[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).

[4] 17 CFR 240.19b–4(f)(6).

[5] LEAPS are Long-term Equity Anticipation Securities or long-term options series. *See* Phlx Rules 1079, 1012, and 1101A.

[6] *See* Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (SR–Phlx–95–08, SR–Amex–95–12, SR–PSE–95–07, SR–CBOE–95–19, and SR–NYSE–95–12).

Price Program.[7] Of the 200 options classes eligible for the $2.50 Strike Price Program, 46 have been allocated to Phlx.[8] In 2005, the $2.50 Strike Price Program was expanded to permit the listing of options with $2.50 strike price intervals for options with strike prices between $50 and $75, provided that the $2.50 strike price intervals are no more than $10 from the closing price of the underlying stock in its primary market[9] on the preceding day.[10] With the expansion of the $2.50 Strike Price Program to options with strike prices below $75, for example, if an option class has been selected as part of the $2.50 Strike Price Program, and the underlying stock closed at $48.50 in its primary market, the Exchange may list options with strike prices of $52.50 and $57.50 on the next business day; and if an underlying security closed at $54, the Exchange may list options with strike prices of $52.50, $57.50, and $62.50 on the next business day. Moreover, an option class would remain in the $2.50 Strike Price Program until the Exchange otherwise designates and sends a decertification notice to the Options Clearing Corporation.

The Exchange is hereby clarifying that it, like other options exchanges with the $2.50 Strike Price Program, may list LEAPS at $2.50 strike price intervals at all strike prices that are available pursuant to the $2.50 Strike Price Program. The Exchange believes that the $2.50 Strike Price Program has benefited the marketplace by creating additional trading opportunities for customers in all options including LEAPS by affording such customers the ability to more closely tailor investment strategies to the precise movement of the underlying security. The availability of $2.50 strike price intervals for LEAPS will likewise benefit the marketplace and is in conformity with current industry practice.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[11] in general, and furthers the objective of Section 6(b)(5) of the Act[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and the national market system.

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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[15] However, Rule 19b–4(f)(6)(iii)[16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and in the public interest so that it is clear that the Exchange has the immediate ability to list and trade LEAPS at $2.50 strike price intervals at all strike prices that are available pursuant to the $2.50 Strike Price Program. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2007–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–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

[7] *See* Securities Exchange Act Release No. 40662 (November 12, 1998), 63 FR 64297 (November 19, 1998) (SR–Amex–98–21, SR–CBOE–98–29, SR–PCX–98–31, and SR–Phlx–98–26).

[8] The allocation is not changed by this proposed rule filing.

[9] The term ''primary market'' is defined in Phlx Rule 1000 in respect of an underlying stock or Exchange-Traded Fund Share as the principal market in which the underlying stock or Exchange-Traded Fund Share is traded.

[10] *See* Securities Exchange Act Release No. 52961 (December 15, 2005), 70 FR 76095 (December 22, 2005) (SR–Phlx–2005–77). *See also* Securities Exchange Act Release Nos. 52893 (December 5, 2005), 70 FR 73488 (December 12, 2005) (SR–Amex–2005–067); 52892 (December 5, 2005), 70 FR 73492 (December 12, 2005) (SR–CBOE–2005–39); 52960 (December 15, 2005), 70 FR 76090 (December 22, 2005) (SR–ISE–2005–59); and 52986 (December 20, 2005), 70 FR 76897 (December 28, 2005) (SR–PCX–2005–137).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. Phlx has satisfied the five-day pre-filing requirement.

[16] *Id.*

[17] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 Phlx. 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–Phlx–2007–04 and should be submitted on or before March 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3563 Filed 2–28–07; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2007–0013]

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Department of Veterans Affairs (VA), Veterans Benefit Administration (VBA))—Match Number 1008

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of a computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of a computer matching program that SSA will conduct with VA/VBA.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 965–8582 or writing to the Associate Commissioner, Office of Income Security Programs, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

[18] 17 CFR 200.30–3(a)(12).

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records.

It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: February 22, 2007.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) With Department of Veterans Affairs (VA), Veterans Benefit Administration (VBA) Match Number 1008

A. Participating Agencies

SSA and VA/VBA.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions for VA/VBA as the source agency to disclose VA compensation and pension payment data to SSA, the recipient agency. This disclosure will provide SSA with information necessary to identify certain Supplemental Security Income (SSI) and Special Veterans Benefit (SVB) recipients under titles XVI and VIII of the Social Security Act (the Act) respectively, who receive VA-administered benefits. SSA will then update the SSI/SVB records to reflect the presence of such payments.

The disclosure will also enable SSA to efficiently implement a Medicare outreach program mandated by Section 1144 of title XI of the Act. Information disclosed by VA will enable SSA to identify income limits for certain individuals; to determine their potential eligibility for Medicare Savings Programs, and to identify these individuals to the States.

C. Authority for Conducting the Matching Program

The legal authority for SSA to conduct this matching activity is contained in sections 1631(e)(1)(B) and 1631(f) of the Act, (42 U.S.C. 1383(e)(1)(B) and 1383(f)(SSI)), and section 806(b) of the Act, (42 U.S.C. 1006(b)(SVB)) and section 1144 of the Act, (42 U.S.C. 1320b–14). SSA is required to verify declarations of applicants for, and recipients of, SSI payments before making a determination of eligibility or payment amount.

The legal authority for VA to disclose information for this match is contained in section 1631(f) of the Act, (42 U.S.C. Section 1383(f)). That section requires Federal agencies to provide such information as the Commissioner of Social Security needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

D. Categories of Records and Individuals Covered by the Matching Program

VA will provide SSA with electronic files containing compensation and pension payment data from its system of records entitled the Compensation, Pension, Education and Rehabilitation Records—VA (58VA21/22) first published at 41 FR 9294 (March 3, 1976), and last amended at 70 FR 34186 (June 13, 2005), with other amendments as cited therein. SSA will then match VA data with SSI/SVB payment information maintained in its system of records entitled Supplemental Security Income Record and Special Veterans Benefits (SSA/OEEAS 60–0103.) Routine use 21 of 58VA21/22 and routine use 3 of 60–0103 permits

disclosure of the subject records for matching purposes.

E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E7–3578 Filed 2–28–07; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2007–0014]

Privacy Act of 1974 as Amended; Computer Matching Program (Social Security Administration (SSA)/Law Enforcement Agencies (LA))—Match Number 5001

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal computer matching program, which is expected to begin April 9, 2007.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with the Law Enforcement Agencies.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 965–8582 or writing to the Associate Commissioner, Office of Income Security Programs, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: February 23, 2007.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) With Law Enforcement Agencies (LA)

A. Participating Agencies

SSA and LA.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions under which LA agree to disclose fugitive felon and parole or probation violator information to SSA. SSA will use this information to determine eligibility under titles II, VIII, and XVI of the Social Security Act and to select representative payees.

C. Authority for Conducting the Matching Program

This matching program is carried out under the authority of sections 202(x)(1)(A)(iv) and (v), 202(x)(3), 205(j)(2), 804(a)(2), 807(b) and (d), 1611(e)(4) and (5) and 1631(a)(2) of the Social Security Act.

D. Categories of Records and Individuals Covered by the Matching Program

LA will submit names and other identifying information of individuals who are fugitive felons or parole or probation violators. The Master Files of Social Security Numbers (SSN) Holder and SSN Applications system of records, SSA/OEEAS 60–0058, contains the SSNs and identifying information for all SSN holders. The Master Beneficiary Record system of records, SSA/ORSIS 60–0090, and the Supplemental Income Record/Special Veterans Benefit system of records, SSA/OEEAS 60–0103, contain beneficiary and payment information. The Master Representative Payee File system of records, SSA/OISP 60–0222, contains information on individuals acting in a representative payee capacity. SSA will match data from these systems of records with data received from the LAs as a first step in detecting certain fugitive felons and parole or probation violators who should not be receiving benefits under titles II, VIII or XVI or who are prohibited from serving as a representative payee.

E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E7–3580 Filed 2–28–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5703]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Youth Leadership Program for Venezuela, Ecuador, Peru, Bolivia, and Nicaragua

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–07–23.

Catalog of Federal Domestic Assistance Number: 00.000.

Application Deadline: April 20, 2007.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for the Youth Leadership Program for Venezuela, Ecuador, Peru, Bolivia, and Nicaragua. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to recruit and select youth and adult participants in Venezuela, Ecuador, Peru, Bolivia, and/or Nicaragua and to provide the participants with short-term, U.S.-based exchanges focused on civic education, community activism, and leadership along with follow-on projects in their home communities.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Overview

This Youth Leadership Program will enable teenagers (ages 15–18) and adult educators to participate in intensive, thematic, month-long (25–30 days) projects that are designed to promote high-quality leadership, civic responsibility, and civic activism among the future leaders of Bolivia, Ecuador, Nicaragua, Peru, Venezuela, and the United States. Projects will involve a practical examination of the principles of democracy and civil society as practiced in the United States and provide participants with training that allows them to develop their leadership skills. Participants will be engaged in a variety of activities such as workshops, community and/or school-based programs, seminars, and other activities that are designed to achieve the projects' stated goals and objectives. Multiple opportunities for participants to interact with American youth and educators must be included.

The goals of the programs are:

(1) To promote mutual understanding between the United States and the people of Central and South America;

(2) To develop a sense of civic responsibility and commitment to community development among youth;

(3) To foster relationships among youth from different ethnic, religious, and national groups.

With the specific focus of this program, the following outcomes will indicate a successful project:

- Participants will demonstrate a better understanding of the elements of a participatory democracy as practiced in the United States.
- Participants will demonstrate critical thinking and leadership skills.
- Participants will demonstrate skill at developing project ideas and planning a course of action to bring the projects to fruition.

Applicant organizations should identify their own specific objectives and measurable outcomes based on these program goals and the project specifications provided in this solicitation.

It is anticipated that the total amount of funding available is $500,000. Final assistance awards are contingent on the availability of FY–2007 funding. Depending on the quality of proposals submitted, the Bureau anticipates supporting five discrete projects, each funded at approximately $100,000, one for each of the five specified Central and South American countries. The Bureau makes no assurances that it will award projects in all five countries. Organizations may apply to implement one or more projects. Proposals must clearly indicate the country or countries with which the applicant plans to work, and budgets should be matched to the projects. For instance, if an applicant submits a proposal for one country/project, its grant request should be approximately $100,000. For two, a request would be approximately $200,000, and so on. The Bureau prefers applications for two or more projects that can offer economies of scale and administrative efficiencies. Since cost effectiveness is one of the proposal review criteria, the number of participants that can be accommodated in each project will be a factor in the proposal review process, though this will be balanced with program quality and a realistic budget.

For each project, applicants must focus on the primary theme of civic education. The secondary themes are ethics and ethical leadership and student-organized campaigns or programs that address societal problems such as the environment (including littering), drug addiction prevention, HIV/AIDS awareness, or public safety for cyclists, pedestrians, and drivers. Applicants may propose other social issues appropriate for a youth program. Secondary themes should be woven into the activities as feasible, without creating an overwhelming array of topics. The applicant should present a program plan that allows the participants to thoroughly explore civic education in a creative, memorable, and practical way. Activities should be designed to be replicable and provide practical knowledge and skills that the participants can apply to school and civic activities at home. These projects will offer bright and ambitious youth and teachers who work with youth the opportunity to develop their personal skills in a positive and productive way.

Organizational Capacity

Applicant organizations must demonstrate their capacity for doing projects of this nature, focusing on three areas of competency: (1) Provision of programs that address the goals and themes outlined in this document; (2) age-appropriate programming for youth; and (3) previous experience working on programs with Central and/or South America. Applicants must have the organizational capacity in the partner country(ies) necessary to implement the in-country activities, or they must partner with an organization or institution with the requisite capacity to recruit and select participants for the program and to provide follow-on activities.

Organizations applying to implement more than one of the five projects must convincingly demonstrate their capacity to manage a complex, multi-phase program with several separate projects. The organization's ability to administer more than one project successfully must be thoroughly discussed and proven in the proposal.

Guidelines

Pending the availability of funds, the grants will begin on or about September 1, 2007. The grant period will be 12 to 18 months in duration, as appropriate for the applicant's program design. Each 25- to 30-day exchange program in the United States will take place during the school break in the partner country; see

specific information below. The exact timing of the project may be adjusted through the mutual agreement of the Department of State and the grant recipient.

The grant recipients will be responsible for the following:

- Recruitment and selection of youth and adult educators from diverse geographic regions in the partner countries. The Public Affairs Section of the U.S. Embassy in the partner country will have a key role in developing a recruitment strategy and deciding how finalists are chosen.
- Provision of orientations for exchange participants and for those participating in the host communities.
- Designing and planning of activities that provide a substantive project on the theme of civic education, as well as on leadership development, community service, and suggested secondary themes. Some activities should be school and/or community-based, as feasible, and the projects will involve as much sustained interaction with American peers as possible.
- Arrangement of homestays with American families.
- Logistical arrangements, including visa applications, international and domestic travel, accommodations, and disbursement of stipends.
- Follow-on activities in the partner country that reinforce the ideas, values and skills imparted during the U.S. program through community projects.

Recruitment and Selection: The grant recipients will manage the recruitment and merit-based selection of participants in cooperation with the Public Affairs Sections of the U.S. Embassies in La Paz, Quito, Managua, Lima, and Caracas. Once a grant is awarded, the grant recipient must consult with the Public Affairs Section at the U.S. Embassy to review a recruitment and participant selection plan and to determine the degree of Embassy involvement in the process. Organizers must strive for regional, socio-economic, and ethnic diversity, as well as gender balance. Collaboration with Bi-National Commissions is suggested, if possible. The Department of State and/or its overseas representatives are responsible for final approval of all selected delegations.

Participants: The youth participants will be teenagers 15 to 18 years old who have demonstrated leadership aptitude and a commitment to their communities. The exchange participants will also include adults who are teachers, school administrators, and/or community leaders who work with youth; they will have the dual role of both exchange participant and chaperone. Participants will have enough proficiency in English to communicate with their host families and their American peers but, if necessary, the grantee organization will provide interpretation to assist with educational activities.

U.S. Program: High schools students and educators will spend 25 to 30 days in the United States—in Washington, DC, and in one or two other communities—on an intensive program that is designed to develop the participants' knowledge and skill base in civic education and community activism as well as in youth leadership development.

The U.S. program should focus primarily on interactive activities, practical experiences, and other hands-on opportunities related to the program themes. All programming should include American teenagers wherever possible. The program will also provide opportunities for the adult educators to work with their American peers. Cultural, social, and recreational activities will balance the schedule. Participants will live with American families in homestays for at least half of the exchange period.

Follow-on Activities and In-Country Programming: In-country activities that help to support alumni in their post-exchange activities are required, and should enable the alumni to share their experiences and apply their skills. Applicant organizations should present creative and effective ways to address the project themes, for both program participants and their peers, as a means to amplify the program impact. U.S. project staff or trainers may travel to the partner country several months after the exchange to conduct trainings that reinforce the themes of the exchange; they may be accompanied by American teenagers if supported through cost-sharing.

Country Specific Information

Applicants are required to follow program information for each country, where provided.

Bolivia: Timeframe for U.S. exchange—November 15, 2007, to January 31, 2008. Include topic of creating a sound national identity that unites citizens and the role of the citizen in confronting issues such as corruption and accountability.

Ecuador: Timeframe for U.S. exchange—January 2008. Recruitment should be in both the highlands and in the coastal area, though please note that with an exchange in January, students in the highlands would miss some school at home.

Nicaragua: Timeframe for U.S. exchange—December 1, 2007, to January 30, 2008. Include topic of student-organized campaigns by looking at socio-economic, educational and political empowerment groups.

Peru: Timeframe for U.S. exchange—January 1 to February 20, 2008. Applicants should plan on collaborating with Bi-National Commissions (BNCs) for recruitment. Contact the embassy for more information.

Venezuela: Timeframe for U.S. exchange—August 1 to September 15, 2008.

Proposals must demonstrate how the stated objectives will be met. The proposal narrative should provide detailed information on the major program activities, and applicants should explain and justify their programmatic choices. Programs must comply with J–1 visa regulations for the International Visitor category. Please be sure to refer to the complete Solicitation Package—this RFGP, the Project Objectives, Goals, and Implementation (POGI), and the Proposal Submission Instructions (PSI)—for further information.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2007.

Approximate Total Funding: $500,000.

Approximate Number of Awards: One to five.

Floor of Award Range: $100,000.

Ceiling of Award Range: $500,000.

Anticipated Award Date: September 1, 2007, pending the availability of funds.

Anticipated Project Completion Date: 12–18 months after start date, to be specified by applicant based on project plan.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew these grants for two additional fiscal years before openly competing them again.

III. Eligibility Information

III.1. *Eligible applicants:* Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. *Cost Sharing or Matching Funds:* There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. *Other Eligibility Requirements:* (a) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding grants in amounts over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are not eligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 *Contact Information to Request an Application Package:* Please contact the Youth Programs Division (ECA/PE/C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 203–7505, Fax (202) 203–7529, E-mail: *LantzCS@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/PY–07–23) located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria, and budget instructions tailored to this competition.

Please specify Bureau Program Officer Carolyn Lantz and refer to the Funding Opportunity Number located at the top of this announcement on all other inquiries and correspondence.

IV.2. *To Download a Solicitation Package Via Internet:* The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. *Content and Form of Submission:* Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 form that is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing The J Visa.

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the Responsible Officer for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If the applicant organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss its record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW.,

Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

IV.3d.2 Diversity, Freedom and Democracy Guidelines.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation.

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards may not exceed the amount specified. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants applying to implement more than one project must provide separate sub-budgets for each.

Please refer to the other documents in the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: April 20, 2007.

Reference Number: ECA/PE/C/PY–07–23.

Methods of Submission

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications.

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for

further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original, one fully-tabbed copy, and six copies of the application with Tabs A–E (for a total of 8 copies) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–07–23, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

Applicants must also submit the executive summary, proposal narrative, budget section, and any important appendices as e-mail attachments in Microsoft Word and Excel to the following e-mail address: *LantzCS@state.gov.* In the e-mail message subject line, include the name of the applicant organization and the partner country. The Bureau will transmit these files electronically to the Public Affairs Sections of the U.S. Embassies in the participating countries for their review.

IV.3f.2 Submitting Electronic Applications.

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Please see the review criteria in the accompanying Project Objectives, Goals, and Implementation (POGI) document.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants., http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements.

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Interim reports, as required in the Bureau grant agreement.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Carolyn Lantz, Program Officer, Youth Programs Division (ECA/PE/C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 203–7505, Fax (202) 203–7529, E-mail: *LantzCS@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–07–23.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: February 22, 2007.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3635 Filed 2–28–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5704]

Bureau of Educational and Cultural Affairs (ECA); Request for Grant Proposals: Youth Leadership Program for Indonesia

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–07–29.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: April 26, 2007.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for a Youth Leadership Program with Indonesia. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to recruit and select youth and adult participants overseas and to provide the participants with a U.S.-based exchange project focused on civic education, leadership, tolerance and respect for diversity, and community activism.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The Youth Leadership Program for Indonesia enables teenagers (ages 15–17) and adult educators to participate in intensive, thematic, month-long project in the United States that complement a more formal education in the principles of a civil society. Participants will be engaged in a variety of activities such as workshops, community and/or school-based programs, cultural activities, seminars and other activities designed to achieve the project's stated goals and objectives. Opportunities for participants to interact with American youth and adult educators will be included as much as possible.

The goals of the program are:

(1) To develop a sense of civic responsibility and commitment to community development among youth;

(2) to develop a cadre of community activists who will share their knowledge and skills with their peers through positive action;

(2) To foster relationships among youth from different ethnic, religious, and national groups;

(3) To promote mutual understanding between the United States and the people of other countries.

Program Objective: To introduce students and educators from Indonesia to the principles of democracy, civil society, and youth leadership as they are practiced in the United States, with an additional focus on volunteerism, community activism and peer education (how one can influence one's peers toward positive change; for example, an anti-smoking campaign directed to teens).

Applicants should identify their own specific objectives and measurable outcomes based on these program goals and the project specifications provided in this solicitation.

Applicants must demonstrate their capacity for doing projects of this nature, focusing on three areas of competency: (1) Provision of programs that address the goals and themes outlined in this document; (2) age-appropriate programming for youth; and (3) previous experience in working with Indonesia. Applicants, or their partner organizations, need to have the necessary capacity in Indonesia to recruit and select participants for the program and to provide follow-on activities.

The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds.

Guidelines: Grants should begin on or about September 1, 2007, subject to the availability of funds. The grant period will be approximately 14 to 20 months in duration, according to the applicant's program plan.

In pursuit of the goals outlined above, the programs will include the following:

- Recruitment and selection of a diverse group of youth and adult educators in Indonesia.
- A pre-departure orientation program.
- Designing and planning of activities in the United States that provide a substantive program on civic education, leadership, tolerance and respect for diversity, and community activism. Some activities should be school and/or community-based, as feasible, and the project will involve as much interaction with American peers as possible.
- Logistical arrangements, home-stay arrangements and other accommodation, provisions for religious observance, disbursement of stipends/per diem, local travel, and travel between sites.
- Follow-on activities in the participants' home countries designed to reinforce the ideas, values, and skills imparted during the U.S. program.

Recruitment and Selection: Once a grant is awarded, the grant recipient must consult with the Public Affairs Section at the U.S. Embassy in Jakarta to review a recruitment and participant selection plan. Organizers must strive for the broadest regional and ethnic diversity within Indonesia. The Department of State and/or its overseas representatives reserve final approval of all selected delegations.

Participants: The participants will be 15–20 students and educators selected from a variety of schools—public (secular) schools, pesantrens (Islamic boarding schools), and non-Islamic parochial schools. Participants should represent Indonesia's diversity. The ratio of students to educators should be approximately 5:1. The students need not have English skills; the grant recipient should be prepared to provide professional interpretation services appropriate to the project.

Criteria for selection of participants will be leadership skills, an interest in service to the community, strong academic and social skills, overall composure, and openness and flexibility. It is desirable that 2–3 participants attend or teach at the same school or live in the same community so that they can support each other upon return.

U.S. Program: Applicants should propose a four-week exchange in the United States that takes place between March and August 2008. The project may take place in one or two communities and should offer the participants exposure to the variety of American life. The program should focus primarily on interactive activities, practical experiences, and other hands-on opportunities to learn about the fundamentals of a civil society, community service, tolerance and respect for diversity, and building leadership skills. Suggestions include simulations, a volunteer service project, and leadership training exercises. All programming should include American participants wherever possible. Cultural and recreational activities will balance the schedule. Please see the POGI for more details.

Follow-on Activities and In-Country Programming: Follow-on activities for U.S. program alumni are required, and additional in-country programming is strongly recommended. Applicants should present creative and effective ways to address the project themes, for both program participants and their peers, as a means to amplify the program impact.

Proposals must demonstrate how the stated objectives will be met. The proposal narrative should provide detailed information on the major program activities, and applicants should explain and justify their programmatic choices. Programs must comply with J–1 visa regulations. Please be sure to refer to the complete Solicitation Package—this RFGP, the Project Objectives, Goals, and Implementation (POGI), and the Proposal Submission Instructions (PSI)—for further information.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2007.

Approximate Total Funding: $180,000.

Approximate Number of Awards: One.

Anticipated Award Date: September 1, 2007, pending availability of funds.

Anticipated Project Completion Date: 14–20 months after start date, to be specified by applicant based on project plan

Additional Information: Pending successful implementation of the project and the availability of funds in subsequent fiscal years, ECA reserves the right to renew grants for up to two additional fiscal years before openly competing grants under this program again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one grant not to exceed $180,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package: Please contact the Youth Programs Division (ECA/PE/

C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 453–8158, Fax (202) 453–8169, E-mail: *SchulzAJ@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/PY–07–29) located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document, which consists of required application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria, and budget instructions tailored to this competition.

Please specify Bureau Program Officer Amy Schulz and refer to the Funding Opportunity Number (ECA/PE/C/PY–07–29) located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Submission Dates and Times section'' below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 form that is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence To All Regulations Governing The J Visa.

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

IV.3d.2. Diversity, Freedom and Democracy Guidelines.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation.

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions,

including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. Awards may not exceed the amounts specified. Funding for the project is not to exceed $180,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the other documents in the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3F. Application Deadline and Methods of Submission.

Application Deadline Date: April 26, 2007.

Reference Number: ECA/PE/C/PY–07–29.

Methods of Submission:

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(1) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

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IV.3f.1 Submitting Printed Applications.

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original, one fully-tabbed copy, and five copies of the application with Tabs A–E (for a total of 7 copies) should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–07–29, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the executive summary, proposal narrative, budget section, and any important appendices as e-mail attachments in Microsoft Word and Excel to the following e-mail address: *SchulzAJ@state.gov*. In the e-mail message subject line, include the name of the applicant organization. The Bureau will transmit these files electronically to the Public Affairs Section in the U.S. Embassy in Jakarta for review.

IV.3f.2 Submitting Electronic Applications.

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in

the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time E-mail: *support@grants.gov*.

Applicants have until midnight (12 a.m.) of the closing date to ensure that their entire applications have been uploaded to the grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Please see the review criteria in the accompanying Project Objectives, Goals, and Implementation (POGI) document.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following websites for additional information: *http://www.whitehouse.gov/omb/grants*, *http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI*.

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Interim reports, as required in the Bureau grant agreement.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Amy Schulz, Program Officer, Youth Programs Division (ECA/PE/C/PY), Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Telephone (202) 453–8158, Fax (202) 453–8169, E-mail: *SchulzAJ@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–07–29.

Please read the complete announcement before sending inquiries

or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: February 20, 2007.

Dina Habib Powell,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3623 Filed 2–28–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Docket No. OST–2007–27401]

RIN 2105–ADO4

Application To Renew Information Collection Request OMB No. 2105–0551

AGENCY: Office of the Secretary, Department of Transportation (Department or DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) this notice announces the Department of Transportation intention to apply to the Office of Management and Budget (OMB) to renew approval of the information collection request (ICR) OMB No. 2105–0551, ''Reporting Requirements for Disability-Related Complaints.'' The current information collection request approved by OMB expires April 30, 2007.

DATES: Comments on this notice must be received by April 30, 2007.

ADDRESSES: Comments on this action must refer to the docket and notice numbers cited at the beginning of this document and must be submitted to the Docket Management Facility (SVC–124), Office of the Secretary, located on the Plaza Level of the Nassif Building, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The DOT Docket Facility is open to the public from 9 a.m. to 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329. Comments will be available for inspection at this address and will also be viewable via the Web site for the Docket Management System at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Damon P. Whitehead or Blane A. Workie, Office of the General Counsel, 400 7th Street, SW., Room 4116, Washington, DC 20590, (202) 366–9342 (voice), (202) 366–7152 (Fax) or *damon.whitehead@ dot.gov* or *blane.workie@dot.gov* (E-mail). Arrangements to receive this document in an alternative format may be made by contacting the above-named individuals.

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements for Disability-Related Complaints.

OMB Control Number: 2105–0551.

Type of Request: Renewal of currently approved Information Collection Request.

Background: On July 8, 2003, the Office of the Secretary published a final rule that requires most certificated U.S. and foreign air carriers operating to, from and within the U.S. that conduct passenger-carrying service utilizing large aircraft to record complaints that they receive alleging inadequate accessibility or discrimination on the basis of disability. The carriers must also categorize these complaints according to the type of disability and nature of complaint, prepare a summary report annually of the complaints received during the preceding calendar year, submit the report to the Department of Transportation's Aviation Consumer Protection Division, and retain copies of correspondence and records of action taken on the reported complaints for three years. The Rule requires carriers to submit their annual report via the World Wide Web except if the carrier can demonstrate an undue burden by doing so and receives permission from the Department to submit it in an alternative manner. The first required report covered complaints received during calendar year 2004 and was due by January 25, 2005. Subsequent reports of disability-related complaints received by carriers are due each year on the last Monday in January for the prior calendar year. On April 23, 2004, OMB approved information collection of disability-related complaints, ''Reporting Requirements for Disability-related Complaints'' through April 30, 2007.

Respondents: Certificated U.S. and foreign air carriers operating to, from and within the United States that conduct passenger-carrying service with large aircraft.

Estimated Number of Respondents: 370.

Estimated Total Burden on Respondents: 185 hours.

Comment are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 26, 2007, under authority delegated in 49 CFR part 1.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. E7–3665 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–2007–27370]

Notice of Order Soliciting Community Proposals

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Order Soliciting Community Proposals (Order 2007–2–22).

SUMMARY: The Department of Transportation is soliciting proposals from communities or consortia of communities interested in receiving a grant under the Small Community Air Service Development Program. The full text of the Department's order is attached to this document. There are two mandatory requirements for filing of applications, both of which must be completed for a community's application to be deemed timely and considered by the Department. The first requirement is the submission of the community's proposal to Dockets, as described below; the second

requirement is the filing of SF424 through *http://www.grants.gov.*

DATES: Grant Proposals as well as the SF424 should be submitted no later than April 27, 2007.

ADDRESSES: Interested parties can submit applications either electronically using the procedures at *http://dms.dot.gov* or by hard copy. For the latter, an original and two copies of the application should be submitted to Dockets Operations and Media Management, M–30, Room PL–401, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Whichever method used, the application and any copies should bear the title ''Proposal under the Small Community Air Service Development Program, Docket OST–2007–27370, as well as the name of the applicant community or consortium of communities, the legal sponsor, and the applicant's DUNS number. The SF424 is submitted electronically through *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Aloha Ley, Office of Aviation Analysis, 400 7th Street SW., Washington, DC 20590, (202) 366–2347.

Dated: February 26, 2007.

Michael W. Reynolds,

Deputy Assistant Secretary for Aviation and International Affairs.

Issued by the Department of Transportation on the 26th day of February, 2007.

[Docket OST–2007–27370]

In the Matter of Grant Applications; Small Community Air Service Development Program Under 49 U.S.C. 41743 *et seq.*; Order Soliciting Community Grant Proposals

Overview

By this order, the Department invites proposals from communities and/or consortia of communities interested in obtaining a federal grant under the Small Community Air Service Development Program (Small Community Program) to develop cost-effective air services in their communities. Proposals should be submitted in the above-referenced docket no later than April 27, 2007. Applicants *must* submit form SF424, a standard federal government application form, in Grants.gov. An application will *not* be deemed complete until and unless all required documents are filed. (All applicants must register as Grants.gov users and are advised that the registration process can take two weeks to complete. See Appendix C for additional information on filing form SF424 using Grants.gov.)

Funding Opportunity

The Small Community Program was established under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21), Public Law 106–181, as a three-year ''pilot'' program and was designed to provide financial assistance to small communities to help them enhance their air service. The Department provides this assistance in the form of financial grants that are disbursed on a reimbursable basis. The program was subsequently reauthorized for an additional five years, through fiscal year 2008, under the Vision 100-Century of Aviation Reauthorization Act, Public Law 108–176 (Vision 100), which also eliminated the ''pilot'' status of the program.[1] On February 15, 2007, the President signed in to law the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–005), which provides the Department with $10 million to administer the Small Community Program.[2]

The program's authorizing statute limits the Department to a maximum of 40 grant awards, with a maximum of four grants per state, in each year the program is funded. However, the law does not prescribe any limits on the amounts of individual awards, and the amounts awarded will vary depending upon the features and merits of the proposals selected. Over the past five years, the Department's individual grants have ranged from $20,000 to nearly $1.6 million. Awarded grant funds do not have to be expended in the year of award, nor do they need to be used within a one-year period. Authorized grant projects may include activities that extend over a multi-year period under a single grant award; however, grant funds are to be used in a timely manner. Generally speaking, grant awards have not exceeded a three-to-four-year period.

[1] For detailed background on the Small Community Program, see our Web site at: *http://ostpxweb.dot.gov/aviation/X–50%20Role_files/smallcommunity.htm#Funds.*

[2] This funding is subject to a 1% across-the-board rescission. Furthermore, the program's funding for this year may be affected by a provision that provides the Secretary with authority to transfer funds from any program within or administered by the Office of the Secretary to the Essential Air Service (EAS) program if the EAS program does not have sufficient funds to meet its statutory obligations. In addition, a portion of the funds available for the Small Community Program may be used by the Department for grants-management purposes.

Eligibility Information

Who is Eligible to Apply for a Grant?

Basic Criteria

Eligible applicants are those communities that (1) are served by an airport that was not larger than a small hub airport for calendar year 1997 and (2) had insufficient air service or unreasonably high airfares.[3] Communities that do not currently have commercial air service are also eligible, but they must have met or be able to meet in a reasonable period all necessary requirements of the Federal Aviation Administration for the type of service involved in their grant proposals. Communities served by medium and large hubs are *not* eligible to apply.

EAS Communities May Apply

Small communities that meet the basic criteria and currently receive subsidized air service under the Essential Air Service (EAS) program are eligible to apply for funds under the Small Community Program. Indeed, a number of EAS-subsidized communities applied in past years and some have received grant awards. However, grant awards to EAS-subsidized communities are limited to (1) marketing or promotion projects that support existing or newly subsidized air services or (2) new air services, such as on-demand air taxi service. Furthermore, grants funds will not be authorized for EAS-subsidized communities to support either additional flights by EAS carriers or changes to those carriers' existing schedules.

Additional Consideration for Communities/Members of Consortia That Have Previously Received a Grant

Communities or members of a consortia that were awarded grants in previous years and want to apply for a grant this year should be aware that (1) they are precluded from seeking funds for projects for which they have already received an award under the Small Community Program, and (2) they cannot accept a new grant while they are a party to an existing grant under the program, either as an individual community or as a member of a consortium.

New projects are eligible. Previous grant recipients may submit grant proposals and seek funds for *new* projects in a different category. For example, although a community which had received a grant for a market study

[3] The hub classifications are based on the Federal Aviation Administration's CY 1997 enplanement data.

could not apply for a new grant for another market study, it could apply for funding for a revenue guarantee for new air service. Communities should note, however, that interest in this program could exceed both the funds available and the number of communities that can participate in any one year. For this reason, the fact that a community has already received one or more grants will be a consideration when comparing its new proposal with those of other applicant communities.

No concurrent grants are permitted. A community or member of a consortia may participate in the program a subsequent time only after its participation in a prior grant has terminated. 49 U.S.C. 41743(c)(4). Simply stated, for a grant applicant to enter into a subsequent grant, its most recent grant must have expired or its participation in the grant otherwise terminated. If a grant applicant is applying for a subsequent grant and its current grant has not yet expired, it must notify the Department of its intent to terminate the current grant prior to entering into the new grant. In addition, for grant applicants that are members of a consortia grant, permission must be granted from both the grant sponsor and the Department to withdraw from the current grant prior to being eligible to receive a subsequent grant.

City-pair Subsidies for a Carrier to Compete Against an Incumbent Raise Concerns

Communities that propose to use the grant funds for service in a city-pair market that is already served by a carrier must explain in detail why the existing service is insufficient or unsatisfactory, or provide other compelling information to support such proposals. This information is necessary for the Department to consider the competitive implications of giving financial or other tangible incentives for one carrier that the other carrier is not receiving. The Department is concerned generally about subsidizing one carrier but not others in a competitive market and that, while bringing new competition may benefit the community in the short term, a market may prove insufficient to support two carriers and service may deteriorate to the point that the community's service is less beneficial than before.

A Consortium Is More Than a Collection of Communities

The statute permits individual communities and consortia of communities to apply for grant awards under this program. In some instances in the past, several communities in a state have filed a single application as a ''consortium'' while in effect the application is a collection of individual community requests that involve different projects. We do not view this as a consortium. Rather, an application representing a consortium would be one that facilitates efforts of communities working together toward a joint grant project. For example, several communities surrounding an airport may apply together to improve air services at that airport, or surrounding airports may work together to provide regional air service.

Multiple Applications by a Community Will Not Be Considered

The Department requests that communities file only one application for a grant. In the past, some communities have filed both individual applications and requests as part of a consortium. In many cases these applications have involved the same project at the same or different funding levels. We will not consider the stand-alone application if a community is also submitting a largely identical request as part of a consortium. To the extent that a community files separately and as part of a consortium for complementary projects—for example, one request for funding a revenue guarantee and one for marketing—we will consider such proposals. However, communities should be aware that they can still only receive one grant, either the stand-alone grant or as a member of a consortium, since a community may not have concurrent grants.

Cost Sharing and Local Contributions Are Important Factors

The statute does not require communities to contribute toward a grant project, but those communities that contribute from local sources other than airport revenues are accorded priority consideration. One core objective of the Small Community Program is to promote community involvement in addressing air service/air fare issues through public/private partnerships. As a financial stakeholder in the process, the community gains greater control over the type, quality, and success of the air service initiatives that will best meet its needs, and demonstrates a greater commitment towards achieving the stated goals. The Department has historically received many more applications than can be accommodated and nearly all of those applications have proposed a community financial contribution to the project. Thus, proposals that do not propose a community financial contribution will be at a competitive disadvantage.

Types of Contributions

Contributions should represent a *new* financial commitment or *new* financial resources devoted to attracting new or improved service, or addressing specific high-fare or other service issues, such as improving patronage of existing service at the airport. Contributions from already-existing programs or projects (e.g., designating a portion of an airport's existing annual marketing budget to the project) are considered less favorably than contributions for new and innovative programs or projects. For those communities that propose to contribute to the grant project, that contribution can be in the following forms:

Cash from non-airport revenues. This cash contribution can include funds from the State, the County or the local government, and/or from local businesses, or other private organizations in the community. Cash contributions exclude intangible or non-cash items, such as the ''value'' of donated advertising.

Cash from airport revenues. This includes contributions from funds generated by airport operations. Federal law (49 U.S.C. sections 47107(b), (l)–(p)) and policy concerning the use of airport revenue (64 FR 7696, February 16, 1999) preclude the use of airport revenues for revenue guarantees to airlines. Community proposals that include local contributions based on airport revenues do not receive priority consideration for selection.

In-Kind Contributions from the airport. This can include such items as waivers of landing fees, terminal rents, fuel fees, and/or parking fees.

In-Kind Contributions from the community. This can include such items as donated advertising from media outlets, catering services for inaugural events, or in-kind trading, such as advertising in exchange for free air travel. Travel banks and travel commitments/pledges are regarded as an in-kind contribution. Similarly, reduced fares by airlines will be considered an in-kind contribution.

Cash vs. In-Kind Contributions

Only cash contributions will be eligible for reimbursement. ''In-kind'' contributions involve services or benefits that do not include a cash transaction between the parties. Because grant funding under the Small Community Program is provided on a *reimbursable basis*, the Department cannot reimburse the grant sponsor for ''in-kind'' or non-cash contributions.

Therefore, in-kind contributions are not considered as part of the community's *cash* financial contribution to the project. Of course, communities are free to include in-kind contributions in their proposals. In fact, communities are encouraged to offer in-kind inducements as an *extra* incentive to facilitate air service/fare improvements. While these contributions will not be considered as part of the community's cash contribution toward the project on which reimbursements are made, they *will* be considered as illustrative of the community's overall commitment to the proposed grant project. If there is any question about whether a proposed contribution would be considered as ''in-kind'' or cash, the applicant should contact the Department before submitting its proposal.

Financial Commitments Must Be Fulfilled

Applicant communities should also note that, as part of the grant agreement between the Department and the community, the community has legally committed itself to fulfilling its proposed financial contribution to the project. Community participation with respect to all aspects of the proposal, including the financial aspects, is critical to the success of the authorized project initiative. As with the grant awards in past years, receipt of the full federal contribution awarded will thus be linked to the community's fulfillment of its financial contribution. Furthermore, communities cannot propose a certain level of cash contribution from non-airport sources, and subsequent to being awarded a grant, seek to substitute or replace that contribution with either ''in-kind'' contributions or contributions from airport revenues, or both. Given the statute's priority for contributions from *non-airport* sources and the competitive nature of the selection process, a community's grant award could be reduced or terminated altogether if it is unable to replace the committed funds from non-airport revenue sources.

Application and Submission Information

Filing Deadline and Procedures

Grant applications are due by April 27, 2007. They may be submitted in hard-copy form or by electronic filing. Regardless of the filing method used, however, applicants must also register for and complete SF424, Application For Federal Domestic Assistance. In addition, the cover page of each application should contain the information specified under ''Cover page contents,'' below. Questions regarding the program or the filing of proposals should be directed to the Office of Aviation Analysis, at (202) 366–2347 or *aloha.ley@dot.gov*.

Hard-copy Submission

Applications may be submitted by hand, mail, or express delivery. Proposals postmarked after the due date will *not* be accepted. There are two mandatory requirements for hard-copy filing of applications, both of which must be completed for a community's application to be deemed timely and considered by the Department.

- First, the applicant must submit a proposal that includes all of the information required by this Application and Submission section, including the Summary Sheet that appears in Appendix B. Applicants should submit an original and two copies of their proposals, including the Summary Information Sheet, if submitting their proposals using the hard-copy option.
- Second, the application (including original and two copies) must be sent/delivered to Dockets Operations and Media Management, M–30, Room PL–401, Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

Electronic Submission

Communities may submit their proposals electronically by following the instructions at our Web site, *http://dms.dot.gov*. If a community elects to file electronically, it should *not* submit a hard copy of the application to the Dockets Operations and Media Management Office. Questions about electronic filing procedures should be addressed to Renee Wright, Dockets Operations and Media Management, at (202) 493–0402.[4]

SF424 Required

To comply with Grants.gov initiative, a mandate of the President's Management Agenda, all applicants must submit form SF424, Application for Federal Domestic Assistance, found on *http://www.grants.gov*. Applicants must complete a one-time registration process in order to submit the SF424 application. This registration process can take approximately three to five days to complete. For this reason, communities intending to file applications should complete the registration process as soon as practicable to ensure they can meet the application deadline. Appendix C provides additional information with respect to the registration process in Grants.gov as well as instructions on submitting SF424 once the registration process has been completed. An application will *not* be deemed complete unless the proposal has been submitted to the Department's Docket Operations and Media Management office (hard copy or electronic submission) *and* the SF424 application has been submitted through Grants.gov by the April 27 deadline.

Cover Page Contents

The cover page for all applications, regardless of the method of submission, should bear the title ''Proposal Under the Small Community Air Service Development Program,'' and should include the docket number as shown on the first page of this order, the name of the community or consortium of communities applying, the legal sponsor, and the community's Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number.

Additional Materials

Additional materials such as DVDs and videos cannot be included in the Docket Management System. If communities want to include such information in their proposals, they should provide that information, along with a copy of their application, to the Department's Office of Aviation Analysis, X–50, Room 6401, 400 7th Street, SW., Washington, DC 20590.

Confidential Treatment of Information

Applicants will be able to provide certain information relevant to their proposals on a confidential basis. Under the Department's regulations, such information is limited to commercial or financial information that, if disclosed, would either significantly harm the competitive position of a business or enterprise or make it more difficult for the Federal Government to obtain similar information in the future.

Applicants seeking confidential treatment of a portion of their applications must segregate the confidential material in a sealed envelope marked ''Confidential Submission of X (the applicant) in Docket OST–2007–27370'' and include with that material a request in the form of a motion seeking confidential treatment of the material under 14 CFR 302.12 (Rule 12) of the Department's regulations. The applicant should submit an original and two copies of its

[4] Interested communities can view proposals submitted in prior years in Docket OST–2002–11590, Docket OST–2003–15065, Docket OST–2004–17343, Docket OST–2005–20127, and Docket OST–2006–23671 for FY 2002, 2003, 2004, 2005 and 2006 grants, respectively, through the Department's docket management system at the following Web address: *http://dms.dot.gov/*.

motion and an original and two copies of the confidential material in the sealed envelope. The confidential material should *not* be included in the original *or in any of the copies* of the applicant's proposal that are submitted to the Department. Those submissions, however, should indicate clearly where the confidential material would have been inserted. If applicants invoke Rule 12, the confidential portion of the filing will be treated as confidential pending a final determination. All confidential material must also be received by April 27, 2007.

Types of Projects and Application Content

The statute is very general about the types of projects that can be authorized so that communities are provided greater flexibility in addressing their particular air service and airfare issues. Since circumstances may differ among communities, applicants have some latitude in identifying their own objectives and developing strategies for accomplishing them.

Another objective of the Small Community Program is to help communities secure enhancements that will be responsive to their air transportation/air fare needs on a long-term basis after the financial support of the grant has discontinued. There are many ways that a community might enhance its current air service or attract new service, such as:

- Promoting awareness among residents of locally available service;
- Attracting a new carrier through revenue guarantees or operating cost offsets;
- Attracting new forms of service, such as on-demand air taxi service;
- Offering an incumbent carrier financial or other incentives to lower its fares, increase its frequencies, add new routes, or deploy more suitable aircraft, including upgrading its equipment from turboprops to regional jets;
- Combining traffic support from surrounding communities with regionalized service through one airport; or
- Providing local ground transportation service to improve access to air service to the community and the surrounding area.[5]

Communities are encouraged to be innovative and to consider a wide range of initiatives and air transportation services in developing their proposals. At the same time, general, vague, or unsupported proposals will not be entertained. The more highly defined and focused the proposal, the more likely it will enhance its attractiveness, particularly given the statute's priority consideration for applicants who can use the funds in a timely manner. (49 U.S.C. 41743 (c)(5)(E)).

There is no set format that must be used in submitting grant proposals. At a minimum, however, a proposal must provide the following information:

- *A description of the community's existing air service,* including the carrier(s) providing service, service frequency, direct and connecting destinations offered, available fares, and equipment types.
- *A synopsis of the community's historical service,* including destinations, traffic levels, service providers, and any extenuating factors that might have affected traffic in the past or that can be expected to influence service needs in the near to intermediate term.
- *A description of the community's air service needs or deficiencies,* including any major origin/destination markets not now served or not served adequately. In addition, communities are free to submit any information about their fare levels that they deem relevant to consideration of their grant request.
- *A strategic plan for meeting those needs under the Small Community Program,* including the community's specific project goal(s) and detailed plan for attaining that goal(s). Proposals should:

✓ Clearly identify the target audience of each component of the proposed transportation initiative, including all advertising and promotional efforts.

✓ Set forth a realistic timetable for implementation of the grant project. In this regard, the statute includes timely use of the grant funds as a priority consideration. Consequently, communities must have a well-developed project plan and detailed timetable for implementing that plan. In establishing the timetable, however, communities should be realistic about their ability to meet their project deadlines.[6]

✓ Proposals involving new or improved service explain how the service will become self-sufficient since, under the statute, a community cannot seek grant funding in subsequent years in support of the same project. It is important that communities seriously consider the scale of their proposed projects in developing their proposals and the timetable for achieving them. To the extent that a proposed project is dependent upon or relevant to completion of other federally funded capital improvement projects, the community should provide a description of, and the construction time-line for, those projects, keeping in mind the statutory requirement to use Small Community Program funding in a timely manner.

✓ Of particular importance when drafting a proposal, applicants should fully and clearly outline the goals and objectives sought to be achieved, e.g., ''to broaden the awareness by residents in the Tri-County area of the operations provided by passenger carriers at the Tri-County airport,'' or ''to obtain new and affordable service to a hub airport in a direction where there is no such service.'' When an application is selected, these goals and objectives will be incorporated into the grant agreement and define its basic project scope. Once an agreement is signed, if circumstances change and an amendment is sought to allow for different activities or a different approach, the Department will look to whether the change being sought is consistent with those fundamental project goals and objectives. Proposed changes that would alter those fundamental goals and objectives cannot be authorized, because doing so would undermine the competitive nature of the selection process. Applicants are also encouraged to include in their proposals alternative or back-up strategies for achieving their desired goals and objectives. By incorporating such information into the grant agreement, desired changes may be more easily accommodated.

- *A description of any public-private partnership that will participate in the project.* Full community involvement is a key aspect of the Small Community Program. The statute gives a priority to those communities that already have established, or will establish, a public-private partnership to facilitate air service to the public. The proposal should give a full description of the public-private partnership that will participate in the community's proposal and how the partnership will actively participate in the implementation of the proposed project. In addition, applicants should identify each member of the partnership, the role that each will play, and its specific responsibilities in the implementation

[5] These examples are illustrative only and are not meant as a list of projects favored by the Department.

[6] The projected timetable will be an integral part of the grant agreements between the selected communities and the Department. Therefore, there is no advantage to a community in proposing an aggressive timetable that cannot be met, and there may be disadvantages if the community finds that it cannot meet its timetable. Communities should carefully consider all factors affecting implementation of their projects and develop realistic timeframes for achieving those objectives, keeping in mind that authorized projects generally have averaged three to four years.

of the project. If the application does not include specific information on the partnership participation in the project, the Department cannot evaluate how well a community has met this consideration, and the applicant will *not* be deemed as having met this priority consideration in the Department's evaluation of the community's proposal.

• *A detailed description of the funding necessary for implementation of the community's project, including the federal and non-federal contributions.* Proposals should clearly identify the level of federal funding sought. They should also clearly identify the other cash contributions toward the proposed project, ''in-kind'' contributions from the airport, and ''in-kind'' contributions from the community. Cash contributions from airport revenues should be identified separately from cash contributions from other community sources. Similarly, cash contributions from the state and/or local government should be separately identified and described.[7]

Applicant communities should be aware that, if awarded a grant, the Department will not reimburse the community for pre-award expenses such as the cost of preparing the grant application or for any expenses incurred prior to the community executing a grant agreement with the Department. In addition, 10 percent of the grant funds will be withheld until the Department receives the final report of the grant project. See ''Award Administration Information,'' below.

• *An explanation of how the community will ensure that its own funding contribution is spent in the manner proposed.*

• *Descriptions of how the community will monitor the progress of the grant project* and identify critical milestones during the life of the grant, including the need to modify or discontinue funding if identified milestones cannot be met. This is an important component of the community's proposal and serves to demonstrate the thoroughness of the community's planning of the proposed grant project. Applicant communities are on notice that any modifications must first be approved by the Department. Moreover, modifications to the project will be considered only to the extent that the changes do not deviate from the original goal and scope of the authorized grant project. As noted above, the Department will not permit fundamental changes to a community's proposal in order to preserve a grant award.

• *A description of how the community plans to continue with the project if it is not self-sustaining after the grant award expires.* A particular goal of the Small Community Program is to provide long-term, self-sustaining improvements to air service at small communities. A community cannot seek further grant funding in support of the same project. 49 U.S.C. 41743(c)(4). It is possible that a new or improved service at a community will be well on its way to becoming self-sustaining, but will not have reached that goal when the grant has expired. Similarly, it is possible that extensive marketing and promotional efforts may be in process, but not completed, at the end of the grant period and will require continued support. Therefore, in developing its proposal, the community should carefully consider and describe its plans for continued financial support for the project after the grant funding is no longer available. This aspect of the application reflects on the community's commitment to the grant project and is an important component to the Department's consideration of the community's proposal for selection for a grant award.

• *A description of the community's air service development efforts over the past five years and the results of those efforts.* Many communities have been active on an on-going basis for many years in air service development efforts, while others are just beginning. To the extent that a community has previously engaged in other air service initiatives, including through public/private partnerships, it should describe those efforts and their results in its grant proposal. This should include marketing and promotional efforts of airport services as well as efforts to recruit additional or improved air service and airfare initiatives.

• *Designation of a legal sponsor responsible for administering the program.* The legal sponsor *must* be a government entity. If the applicant is a public-private partnership, a public government member of the organization must be identified as the community's sponsor to accept program reimbursements. In this regard, communities can designate only a single government entity as the legal sponsor, even if a consortium, for example, consists of two or more local government entities. Private organizations cannot be designated as the legal sponsor of a grant under the Small Community Program.[8]

Air Service Development Zone Designation

The statute authorizing the Small Community Program also provides that the Department will designate one of the grant recipients as an Air Service Development Zone. The purpose of the designation is to provide communities interested in attracting business to the area surrounding the airport and/or developing land-use options for the area to work with the Department on means to achieve those goals. The Department will assist the designated community in establishing contacts with and obtaining advice and assistance from appropriate government agencies, including the Department of Commerce as well as other offices within the Department of Transportation, and in identifying other pertinent resources that may aid the community in its efforts to attract businesses and to formulate land-use options. However, the community receiving the designation will be responsible for developing, implementing, and managing activities related to the air service development zone initiative. Only communities that are interested in these objectives and have a plan to accomplish them should compete for the available designation. There are no additional funds associated with this designation, and applying for the designation will provide no special benefit or preference to a community in receiving a grant award under the Small Community Program.

Grant applicants interested in selection for the Air Service Development Zone designation must include in their applications a separate section, titled, *Support for Air Service Development Zone Designation*. That section should include:

✓ Detailed information regarding the property and facilities available for development such as an existing airpark or land for such an airpark;

✓ The other modes of transportation that would be available to support additional economic development, such as rail, road, and/or water access;

✓ Information concerning historic, existing, and any future business

[7] In this regard, instances have arisen in the past where communities have relied extensively on what they characterize as travel banks for a significant portion of their local contribution. A travel ''bank'' involves an actual deposit of funds from the participating entities into a bank for the purpose of purchasing committed air travel on the selected airline and defined procedures for use of those funds under an agreement with the airline. Most often, however, what communities refer to as a travel ''bank'' in reality involves travel ''pledges'' from businesses in the community without any collection of funds or formal procedures for use of the funds. In either case, communities that include travel banks in their proposals must also include a written confirmation from an airline supporting it.

[8] The community has the responsibility to ensure that the recipient of any funding has the legal authority under State and local laws to carry out all aspects of the grant.

activity in the area that would support further development;

✓ Demographic information concerning the community and its environs relevant to the developmental efforts, including population, employment, and per capita income data; and

✓ Any other information that the community believes is relevant to its plans to enhance air service development.

The community should provide as detailed a plan as possible, including what goals it expects to achieve from the air service development zone designation and the types of activities on which it would like to work with the Department in achieving those goals. The community should also indicate whether further local government approvals are required in order to implement the proposed activities.

Application Review Information

The Department will carefully review each proposal and the staff may contact applicants if clarification is needed. The grant awards will be made as quickly as possible so that communities awarded grants can complete the grant agreement process and proceed to implement their plans. Pending unforeseen circumstances, this process should be completed before September 2007. Given the competitive nature of the grant process, the Department will not meet with grant applicants with respect to their grant proposals. Our selection of communities for grant awards will be based on the communities' written submissions.

Priority Factors Considered

The law directs the Department to give priority consideration to those communities or consortia where:

- Air fares are higher than the national average air fares for all communities;
- The community or consortium will provide a portion of the cost of the activity from local sources other than airport revenue sources;
- The community or consortium has established or will establish a public-private partnership to facilitate air carrier service to the public;
- The assistance will provide material benefits to a broad segment of the traveling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and
- The assistance will be used in a timely manner.

Additional Factors Considered

Applications will be evaluated against the priority considerations listed above. Our experience has been that more applications are received than can be funded under the Small Community Program. Consequently, consistent with the criteria stated above, the selection process will take into consideration such additional factors as:

- The relative size of each applicant community;
- The geographic location of each applicant, including the community's proximity to larger centers of air service and low-fare service alternatives;
- The community's existing level of air service and whether that service has been increasing or decreasing;
- Whether the community's proposal, if successfully implemented, could serve as a working model for other communities;
- Current demographic indicators for the community, such as population, income and business activity;
- The community's demonstrated commitment to and participation in the proposed grant project;
- The grant amount requested compared with total funds available for all communities;
- The proposed federal grant amount requested compared with the local share offered;
- Whether the community has a realistic plan to use the funds in a timely manner;
- The uniqueness of an applicant's claimed problems and whether the proposed project addresses those problems;
- The extent to which the applicant's proposed solution(s) to solving the problem(s) is new or innovative;
- Whether the community's proximity to an existing grant recipient could impact its proposal; and
- Whether the applicant community has previously received a grant award under this program.

Full community participation is a key goal of this program as demonstrated by the statute's focus on local contributions and active participation in the project. Therefore, applications that demonstrate broad community support will be more attractive. For example, communities providing proportionately higher levels of cash contributions from other than airport revenues will have more attractive proposals. Communities that provide multiple levels of contributions—cash and in-kind contributions—also will have more attractive proposals. Similarly, communities that demonstrate historic and/or active participation in the proposed air service project will have the attractiveness of their proposals enhanced. In this regard, the Department welcomes letters of intent from airlines on behalf of community proposals that are specifically intended to enlist new or expanded air carrier presence. Such letters will be accorded greater credence when authorized by airline planning departments.

Proposals that offer innovative solutions to the transportation issues facing the community will be more attractive. Small communities have faced many problems retaining and improving their air services and in coping with air fares that are higher than typical for larger communities. Therefore, proposals that offer new, creative approaches to addressing these problems, to the extent that they are reasonable, will have their attractiveness enhanced. Proposals that provide a well-defined plan, a reasonable timetable for use of the grant funds, and a plan for continuation and/or monitoring of the project after the grant expires also will possess greater attractiveness.

Award Administration Information

The Department will announce its grant selections by Order, which will be served on each grant recipient, all other applicants, and all parties served with this order. The selection order will also be posted on the Department's Docket Management System and Web page.

Grant Agreement

Communities awarded grants are required to execute a grant agreement with the Department *before* they begin to spend funds under the grant award. Grant funds will be provided on a *reimbursable basis* only, with reimbursements made only for expenses incurred and billed during the period that the grant agreement is in effect. Applicants should not assume they have received a grant, nor should they obligate or spend local funds prior to receiving and fully executing a grant agreement with the Department. Expenditures made prior to the execution of a grant agreement, including costs associated with preparation of the grant application, will *not* be reimbursed. Moreover, numerous assurances are required to be made and honored when federal funds are awarded. All communities receiving a grant under the Small Community Program will be required to accept the responsibilities of these assurances and to execute the assurances when they

execute their grant agreements.[9] Copies of the applicable assurances are available for review on the Department's Web page at *http://ostpxweb.dot.gov/aviation/X-50%20Role_files/smallcommunity.htm#Funds*.[10]

Grantee Reports

The grant agreements between the Department and the selected communities will require quarterly reports on the progress of implementation of the grant project, as well as the submission on a quarterly or other time-specific basis of additional material relevant to the grant project, such as copies of advertising and promotional material and copies of contracts with consultants and service providers. In addition, communities will be required to submit a final report to the Department with respect to their grant projects, and 10 percent of the grant funds available will not be reimbursed to the community until the final report has been received. Communities will be permitted to seek reimbursement of project implementation costs on a regular basis. The frequency of such requests will be established in the grant agreement, which will be tailored to the specific features of the community's grant project. In most cases, reimbursements will be made on a monthly basis. In this regard, the Department will provide the grant recipient communities with details and procedures for securing reimbursements electronically.

Grant Amendments

A grantee may wish to amend its agreement with the Department in the event of a material change in circumstances after the date the agreement is executed. Typically, amendments involve an extension to the time period for completing the grant or a change in the types of activities authorized for reimbursement under the goals and objectives (''project scope'') of the grant agreement. Grantees are cautioned, however, that the Department cannot authorize amendments that are incompatible with the scope of the agreement. For example, a grant awarded solely for the purpose of developing an airport marketing plan cannot be amended to permit subsidization of an air carrier's startup costs, since the latter was never contemplated by the original agreement. Likewise, an agreement intended to subsidize new service expressly to an ''eastern hub city'' cannot be amended to permit a subsidy for service to a hub on the West Coast. Accommodating such a change would effectively require the Department to consent to a new grant agreement, an action for which we have no legal authority.

Grantees are also advised that the Department will not extend the expiration date of an agreement simply to allow more time for a community to solicit air carriers for new air service. Many grants have been awarded for the purpose of subsidizing new or additional air service for a small community, with the goal of that service becoming self-sustaining by the end of the subsidy period. In virtually all cases, the community seeking the grant funds has received expressions of interest from one or more air carriers. In some instances, these expressions of interest failed to pan out and the community was left without any immediate prospects, at which time it would ask for a grant extension to allow more time to pursue other carriers. Because we are charged by law to consider timely use of funds when selecting grant recipients, the Department will grant an extension only when the community can provide strong evidence of a firm commitment on the part of an air carrier to deliver the desired service.

To avoid misunderstandings, grantees contemplating amendments to their agreements are urged to discuss their situations with the Small Community Program staff before requesting a formal amendment.

This order is issued under authority delegated in 49 CFR 1.56a(f).

Accordingly,

1. Community proposals for funding under the Small Community Air Service Development Program should be submitted in Docket OST–2007–27370 no later than April 27, 2007; [11] and

2. This order will be published in the **Federal Register** and also will be served on the Conference of Mayors, the National League of Cities, the National Governors Association, the National Association of State Aviation Officials (NASAO), the Association of County Executives, the American Association of Airport Executives (AAAE), and the Airports Council International-North America (ACI), and posted on *http://www.grants.gov*

By:

Michael W. Reynolds,

Deputy Assistant Secretary for Aviation and International Affairs.

An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov*.

Appendix A

United States Code Annotated
Title 49. Transportation
Subtitle VII. Aviation Programs
Part A. Air Commerce and Safety
Subpart II. Economic Regulation
Chapter 417. Operations of Carriers
Subchapter II. Small Community Air Service

§ 41743 Airports not receiving sufficient service

(a) Small community air service development program.—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) Application required.—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) An assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) An analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) Criteria for participation.—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) Size.—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

[9] With respect to grants administration generally, the Department is considering possible actions to streamline and simplify certain aspects of its existing administrative processes. Grantees will be apprised if any such actions are to be implemented.

[10] The applicable regulations include, among others: (1) 49 CFR Parts 21 and 27 and 14 CFR Parts 271 and 382—Nondiscrimination in federally-assisted programs of the Department of Transportation—Effectuation of title VI of the Civil Rights Act of 1964; 49 CFR Part 27—Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382—Nondiscrimination on the basis of disability in air travel; (2) 49 CFR Part 29—Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants); and (3) 49 CFR Part 20—New restrictions on lobbying. The complete list of the applicable assurances is on the cited webpage. The assurances noted are for reference purposes only and should not be included in the community's application. The assurances are part of the grant agreement that will be sent to each grant recipient and should be completed at that time.

[11] Proposals must be postmarked no later than April 27, 2007. The original application should be submitted on 8.5″ x 11″ paper, in dark ink (not green) and without tabs to facilitate inclusion in the Department's docket management system. The remaining copies may be tabbed and include use of any color ink.

(A) Had insufficient air carrier service; or

(B) Had unreasonably high air fares.

(2) Characteristics.—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) State limit.—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) Overall limit.—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.

(5) Priorities.—The Secretary shall give priority to communities or consortia of communities where—

(A) Air fares are higher than the average air fares for all communities;

(B) The community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(C) The community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(D) The assistance will provide material benefits to a broad segment of the traveling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and

(E) The assistance will be used in a timely fashion.

(d) Types of assistance.—The Secretary may use amounts made available under this section—

(1) To provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(2) To provide assistance to an underserved airport to obtain service to and from the underserved airport; and

(3) To provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) Authority to make agreements.—

(1) In general.—The Secretary may make agreements to provide assistance under this section.

(2) Authorization of appropriations.—There is authorized to be appropriated to the Secretary $20,000,000 for fiscal year 2001, $27,500,000 for each of fiscal years 2002 and 2003, and $35,000,000 for each of fiscal years 2004 through 2008 to carry out this section. Such sums shall remain available until expended.

(f) Additional action.—Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.

(g) Designation of responsible official.—The Secretary shall designate an employee of the Department of Transportation—

(1) To function as a facilitator between small communities and air carriers;

(2) To carry out this section;

(3) To ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) To work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

(5) To provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(h) Air Service Development Zone.—The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies.

Appendix B

Small Community Air Service Development Program

[Docket OST–2007–27370]

Summary Information

All applicants *must* submit this information along with their proposal. In addition, applicants *must* also fill out form SF424 on *http://www.grants.gov*. (See Appendix C for the SF424 filing process)

A. Applicant Information: (Check All That Apply)

☐ Not a Consortium
☐ Interstate Consortium
☐ Intrastate Consortium
☐ Community now receives EAS subsidy
☐ Community (or Consortium member) previously received a Small Community Grant

If previous recipient, expiration date of grant: _____

B. Public/Private Partnerships: (List Organization Names)

Public

1. _____
2. _____
3. _____
4. _____
5. _____

Private

1. _____
2. _____
3. _____
4. _____
5. _____

C. Project Proposal: (Check All That Apply)

☐ Marketing
☐ Personnel
☐ Travel Bank
☐ Upgrade Aircraft
☐ Increase Frequency
☐ Service Restoration
☐ New Route
☐ Low Fare Service
☐ Subsidy
☐ Surface Transportation
☐ Revenue Guarantee
☐ Start Up Cost Offset
☐ Study
☐ Regional Service
☐ Launch New Carrier
☐ First Service
☐ Secure Additional Carrier
☐ Other (specify)

_____
_____
_____
_____
_____

D. Existing Landing Aids at Local Airport:

☐ Full ILS

☐ Outer/Middle Marker
☐ Published Instrument Approach
☐ Localizer
☐ Other (specify)

E. Project Cost:

Federal amount requested: _____
Total local cash financial contribution: _____
Airport funds: _____
Non-Airport funds: _____
State cash financial contribution: _____
Existing funds: _____
New funds: _____
Airport In-kind contribution: (amount & description) _____
Other In-Kind contribution: (amount & description) _____
Total cost of project: _____

F. Enplanements:

2000 _____
2001 _____
2002 _____
2003 _____
2004 _____
2005 _____

G. Is this application subject to review by State under Executive Order 12372 process?

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on (date) . _____
☐ b. Program is subject to E.O. 12372, but has not been selected by the State for review.
☐ c. Program is not covered by E.O. 12372.

H. Is the Applicant delinquent on any Federal debt? (if ''yes'', provide explanation)

☐ No
☐ Yes (explain) _____

Appendix C

Filing Form SF424—Application for Federal Domestic Assistance

Grants.gov, originally called the E-Grants Initiative, a mandate of the President's Management Agenda, states,

''Agencies will allow applicants for Federal Grants to apply for and ultimately manage grant funds online through a common Web site, simplifying grants management and eliminating redundancies.''

Public Law 106–107, the legislation that mandates streamlining and improved accountability for Federal grants, and related references in the President's Management Agenda, requires that Federal grant management activities be standardized. As a result, the Office of Management and Budget recently issued a *policy directive* requiring that all Federal agencies post grant opportunities online as of November 7, 2006.

Therefore, this year, to comply with the Grants.gov initiative, the Department will begin accepting grant applications via *http://www.grants.gov*. In order for an application to be considered in the Small Community Air Service Development Program, the community must submit its application of form SF424—Application for Federal Domestic Assistance—via *http://www.grants.gov*. Below are instructions on:

- How to FIND the SCASDP application online at *http://www.grants.gov*;
- How to register to submit applications; and
- How to APPLY or complete and submit the application form SF424.

Finding the SCASDP Grant Opportunity on Grants.Gov

Start your search for the Small Community Air Service Development Program grant opportunity by entering *http://www.grants.gov* and clicking the *Find Grant Opportunities* tab at the top of the page. In the search box titled ''Search for Catalog of Federal Domestic Assistance (CFDA) number'' enter 20.930. You will see a summary of the SCASDP requirements.

Register to Submit Applications

Prior to applying, you must register to create a Grants.gov account and receive approval from *your organization* to submit applications. Detailed instructions on how to complete the registration is available on *http://www.grants.gov*.

1. Register your Organization.
- Obtain a Data Universal Number System (DUNS) number.
- Register the organization with a Central Contractor Registry (CCR).

2. Register yourself as an Authorized Organization Representative (AOR).
- Obtain a username and password.
- Register with Grants.gov.

3. Get Authorized as an AOR by your Organization.
- Obtain E-Business Point of Contact authorization.

Applying for the Grant

Once you have located the Small Community Air Service Development Program grant opportunity, you will need to enter the Funding Opportunity and/or the Catalog of Federal Domestic Application (CFDA) number 20.930 to access the application package and instructions online. However, you must complete the registration process before applying (see B above). In order to view the application package and instructions, you will also need to download and install the PureEdge Viewer.

1. Download PureEdge Viewer [Required].
2. Download an Application Package.
3. Complete an Application Package.
4. Submit an Application Package.

Enter the SCASDP CFDA number (20.930) to download the application form SF424 and begin the process to apply for the grant through *http://www.grants.gov*. It is a 4-step process:

Apply Step 1: Download the Grant Application Form SF424 and Application Instructions

You will need to enter the Funding Opportunity and/or CFDA number to access the application package and instructions. Download and install the *PureEdge Viewer (available on http://www.grants.gov)*. This small, free program will allow you to access, complete, and submit applications electronically and securely.

Apply Step 2: Complete the Selected Grant Application Package

You can complete the application offline—giving you the flexibility to complete grant applications when and where you want. It also enables you to easily route it through your organization for review, or completion of various components, just like any other e-mail attachment.

Apply Step 3: Submit a Completed Grant Application Package

You will submit the application online. When you are ready to submit the completed application form SF424, you must have already completed the *Get Started* Steps. You will then need to log into *http://www.grants.gov* using the username and password you entered when you registered with a *Credential Provider* to submit the application.

Note: To submit electronic grant applications, you must be fully authorized by your organization, i.e., been given status as an *Authorized Organization Representative (AOR)*. You can easily check your status by logging into *http://www.grants.gov* by accessing the *Applicant* link at the top of the screen. If you have registered your user name and password with Grants.gov, you will be able to log in. After logging in, access the 'Manage Profile' link. Your status, located below your title, will state: ''AOR—request sent'' or ''AOR—Approved''. If your status is 'AOR—request sent', you cannot yet submit grant applications. You may correct this by contacting your *E-Business Point of Contact (POC)*. He or she will need to log in by accessing the *Ebiz* link at the top of the screen. They will need your organization's DUNs number and MPIN, to approve you as an AOR.

Apply Step 4: Track the Status of a Completed Grant Application Package

Once you have submitted an application, you can check the status of your application submission. You can identify your application by CFDA Number, Funding Opportunity Number, Competition ID, and/or Grants.gov Tracking Number.

[FR Doc. E7–3581 Filed 2–28–07; 8:45 am]
BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Electronic Subscription Service for Airworthiness Directives and Special Airworthiness Information Bulletins

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of policy change.

SUMMARY: This notice publishes additional information about the FAA's

planned transition to electronic distribution of airworthiness directives (ADs) and special airworthiness information bulletins (SAIB) through an e-mail subscription service. This notice gives more details and the schedule for the electronic distribution system, and addresses comments we received in response to Aircraft Engineering Division's previous notice about the plan. The previous notice was titled ''Printing and Distribution Changes for Airworthiness Directives and Special Airworthiness Information Bulletins'' and was published in the **Federal Register** on August 24, 2006.

DATES: Comments must be received on or before April 2, 2007.

ADDRESSES: Send your comments on the planned policy changes electronically by logging onto the following Web site: *http://www.faa.gov/aircraft/draft_docs/* or you may e-mail comments to: 9-amc-air-140-policy. You may mail a hard copy of your comments to: Federal Aviation Administration, Aircraft Engineering Division, Delegation and Airworthiness Programs Branch, AIR–140, MMAC, P.O. Box 26460, Oklahoma City, OK 73125. Attn: Mary Ellen Anderson. Finally, you may deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mary Ellen Anderson, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Delegation and Airworthiness Programs Branch, AIR–140, 6500 S. MacArthur Blvd., ARB 308; Oklahoma City, Oklahoma 73169; phone: (405) 954–7071; fax: (405) 954–2209.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the planned policy changes by submitting written data, views, or arguments to the above address. Comments received may be examined, both before and after the closing date, at the Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591, weekends except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date.

Background

ADs are enforceable rules that apply to products (aircraft, aircraft engines, propellers, and appliances), published to address an unsafe condition per CFR Part 39 criteria. All ADs are currently available to the public via: (1) **Federal Register** at *http://www.gpoaccess.gov/fr/advanced.html*; (2) FAA's Regulatory and Guidance Library (RGL) Web site at *http://rgl/faa.gov;* and (3) paper mailings to all registered owners and operators of the affected product.

We also issue a type of AD called an emergency AD when an unsafe condition exists that requires immediate corrective action. We mail or fax emergency ADs to all registered owners and operators of the affected product, and publish a final rule version soon after in the **Federal Register**.

SAIBs provide recommended actions that owners and operators may use to improve the safety of their products. Because the information contained in SAIBs is not mandatory, we do not publish SAIBs in the **Federal Register**. Effective January 2007, we added SAIBs to our RGL Web site, making it much easier to access and search on these safety documents.

Paper mailing of ADs and SAIBs is a slow, expensive, and inefficient method of delivering safety-related information to affected parties, requiring a massive paper printing and distribution management system. In 2005, we processed and mailed more than 1,000,000 copies of ADs to affected owners and operators. It often takes 5 to 6 days for the owner or operator to receive the mailed copy. And, because of inaccurate or obsolete addresses in FAA's Aircraft Registry database, we typically receive thousands of returned ADs. In light of these difficulties as well as ongoing budgetary constraints, we are pursuing ways to improve our efficiency in distribution of safety information.

Discussion

This notice introduces ''GovDelivery'' for all ADs and SAIBs—an e-mail subscription management system designed specifically for the public sector. Owners, operators, and any interested party will be able to sign up through FAA's RGL Web site at *http://rgl.faa.gov*, and will receive both ADs and SAIBs once subscription is completed. Subscribers will be able to select to receive all documents or only those pertaining to a specific product make and model. They will also have the option to receive general categories such as 'small airplane' or 'engine.' The subscription service will generally deliver the AD or SAIB to each e-mail address within minutes after publication in our RGL Web site. All ADs will continue to be published in the **Federal Register**, and all ADs and SAIBs will continue to be available at our RGL Web site.

Once we are assured that the GovDelivery service is working correctly, we will transition away from paper mailings of ADs. We are asking industry representative groups to help with this transition by making aviation stakeholders aware of the new subscription service for ADs and SAIBs. While we anticipate that GovDelivery service will provide a timely and cost-effective method of ensuring that affected parties receive the safety information they need, we will be monitoring the system to validate that the service is meeting the needs of our customers.

We issued a previous notice in the **Federal Register** on August 24, 2006, titled ''Printing and Distribution Changes for Airworthiness Directives and Special Airworthiness Information Bulletins.'' That notice outlined immediate changes to our mailing processes for ADs and SAIBs. We provided the public the opportunity to comment on that notice and have considered all comments we received. Our responses to those comments are provided following the policy discussed below.

Policy

We expect to make the GovDelivery electronic e-mail service available for ADs and SAIBs available in May 2007. All interested parties are encouraged to subscribe to this service on our RGL Web site at *http://rgl.faa.gov*. Once GovDelivery is available and we are confident in the accurate and timely electronic dissemination of ADs and SAIBs to our subscribers, we will begin implementation of the following changes to our AD/SAIB distribution processes:

(a) We will phase out paper mailing of ADs within a two-month period after GovDelivery becomes available except as described in (b) below. We will manage the phase-out based on the number and types of subscribers signed up in the GovDelivery system.

(b) For now, we will continue to mail or fax emergency ADs to affected owners and operators. We are working on a method to deliver emergency ADs electronically in future, that will assure and record receipt when sent to affected parties.

(c) We will discontinue the existing emergency AD subscription service that is currently available on the RGL Web site, since the GovDelivery service will send emergency ADs (and their final rule versions) to subscribers who have selected to receive ADs of that make/model or category.

(d) We will discontinue the existing SAIB subscription service that is

currently available on the FAA Web site, to allow integration with the AD portion of the subscription service.

(e) We will no longer mail or e-mail ADs or SAIBw to FAA offices and civil airworthiness authorities (CAAs) of other countries. Instead, we will encourage all interested FAA personnel as well as the CAAs to sign-up through GovDelivery to receive these documents.

Comments to Previous Notice

Several commenters expressed support for the planned electronic distribution of ADs and SAIBs. One commenter stated that it would be easier to receive ADs and SAIBs electronically instead of ''logging on and searching through databases to find applicable ADs and SAIBs.'' We agree. GovDelivery service will allow subscribers to receive ADs and SAIBs by e-mail.

Recommendation to Continue Paper Mailings

AOPA recommended that we continue paper mailing of ADs and SAIBs until we make enhancements to our e-mail subscription service to ensure the continued availability and dissemination of relevant safety information. We partially agree. Due to the existing e-mail service for SAIBs we discontinued these mailings in 2006. However, we will continue mailing ADs until we are assured the new GovDelivery service is available and working correctly for both ADs and SAIBs. To publicize the service we have added ''alerts'' on our RGL AD web page and are announcing the coming GovDelivery service on the back of every AD mailed out.

Recommendation To Update the SAIB e-mail Subscription Service

AOPA recommended we enhance the existing SAIB e-mail service to allow selection of SAIBs based on aircraft or engine make and model. We agree. GovDelivery service will allow the user to subscribe to and receive SAIBs selected by make/model instead of having to receive all issued SAIBs.

Continuation of FAA AD Bi-Weekly

A representative for a repair station asked whether the FAA will continue to compile and issue the bi-weekly list of ADs. We are making no change to the AD Bi-weekly process at this time, and will continue to publish the Bi-Weekly report until further notice.

Recommendation To Continue Mailing ''Engine type'' ADs

Continental Airlines, AOPA, NATCA and others expressed concern that we misstated the user's ability to 'register an engine' in the FAA Aircraft Registry. We agree that this terminology was incorrect, since aircraft owners cannot register their engine in the Registry. When they register an airframe they can choose to also identify the engine installed on the airframe; our intent was to use this engine data to support AD mailings. However, we have decided to continue mailing ADs to all owners of engine models identified in an AD, as well as owners of airframe models called out in the ''installed on, but not limited to'' applicability. We will continue this practice until we implement the GovDelivery service.

Recommendation To Mail/Final Rule version of Emergency ADs

AOPA and NATCA stated that sometimes the content of an emergency AD changes between its issuance and the issuance of the final rule version, and for this reason we should mail the final rule copy of the emergency AD as well. We disagree. The final rule version must be substantively equal to the emergency AD to avoid serious legal consequences. If it changes in substance from the emergency AD version, we assign a different AD number and issue another AD. Since the final rule version is equivalent it is not necessary to mail it in addition to the emergency AD. Not that once the GovDelivery service is in place, both versions (the emergency AD and its final rule) will be e-mailed to subscribers for the AD's applicability.

Notification of the Public About This Policy Change

NATCA wrote that the distribution of paper copies of ADs has been the standard for decades. This is a significant policy change that should be made aware to the public and open for public debate. NATCA requests that we withdraw the notice and resubmit it for comment. NATCA also states that FAA has been heavy-handed in lowering the safety level of aircraft by making significant changes in (other) policies. This final policy change must not be implemented for a period of time (six months) and be distributed in writing (published on paper) to all affected organizations, foreign authorities, and every registered aircraft owner, operator, repair stations, airline, etc. this would allow those in the public that do not currently have internet access time to obtain access.

We partially agree. Since the previous notice, issued in August 2006, contained a request for comments, we see no need to withdraw the notice and resubmit it. We also do not concur that we have in any way lowered the safety level of aircraft. Rather, we expect to improve safety by increasing the timeliness and accuracy of our delivery system. However, we agree that the public should have the opportunity to review and comment on these changes, which was the purpose of the previous notice as well as this one. With these notices we will have informed interested parties more than six months prior to our expected implementation date.

Conflict With Existing FAA Policy

NATCA stated that this notice is in conflict with (AD Manual) M–8040.1, Section 17 that mandates the procedures the FAA will follow to distribute paper copies to the public. The proposed policy must note any and all FAA policies/orders that will be affected. We agree that changes to the AD Manual will be necessary in order to align with this planned policy change. We will include these changes in a future revision to the AD Manual once this policy is finalized.

Notification of the Union About This Policy Change

NATCA commented that FAA has failed to coordinate this planned policy change with the NATCA union. This is a significant change in the working conditions of the NATCA bargaining unit employees in AIR, especially AIR–140. If the agency proceeds with these changes, NATCA expects the agency to comply with the legal requirements to notify and negotiate with NATCA prior to implementation. No training has been identified for the workforce.

FAA will comply with all legal requirements. Per the requirements we have assessed this planned policy change and have determined that there is no significant change to working conditions and any impact to bargaining unit employees is 'de minimis.' No new skills, resources, equipment, or training are expected to be required to order to implement this change.

Questionable Use of Federal Funds

NATCA stated that FAA should make public the current costs of publishing ADs and SAIBs, and it should be made part of the public record where the money that should have been used for publishing will be spent instead. It should also be noted if this is a ''business plan'' item and if any managers will receive an award/bonus/pay increase due to the implementation of this notice.

We considered current costs as a factor in deciding to change this policy, and have estimated the savings in reduced printing costs at about $240,000

per year. However, we have no way of determining where these funds will be spent instead, so are unable to provide this information. No managers have received or will receive extra compensation for its implementation. This policy change is not a ''business plan'' item but supports an FAA Flight Plan item.

Issued in Washington, DC, on February 26, 2007.

Susan J.M. Cabler,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 07–921 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25246]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 33 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective March 1, 2007. The exemptions expire on March 2, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov,* FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at *http://dmses.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* and/or 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 may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov.*

Background

On January 3, 2007, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (72 FR 180). That notice listed 33 applicants' case histories, but it incorrectly indicated there were 32. The 33 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 33 applications on their merits and made a determination to grant exemptions to all of them. The comment period closed on February 2, 2007.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 33 exemption applicants listed in this notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular scar, retinal detachment, corneal scarring, prosthesis, corneal opacity, optic atrophy, ocular histoplasmosis syndrome, retinal vein occlusion, cataract, and loss of vision due to trauma. In most cases, their eye conditions were not recently developed. All but ten of the applicants were either born with their vision impairments or have had them since childhood. The ten individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 25 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 33 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 4 to 25 years. In the past 3 years, five of the drivers have had convictions for traffic violations and two of them were involved in crashes.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the January 3, 2007 Notice (72 FR 180).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive

in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–98–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes. (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 33 applicants, four of the applicants had traffic violations for speeding, one applicant failed to obey a traffic sign, and two of the applicants were involved in crashes. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 33 applicants listed in the notice of January 3, 2007 (72 FR 180).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 33 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSRs, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

One individual opposes the granting of vision exemptions to vision impaired drivers with moving violations within a 3-year period. She believes that granting vision exemptions to such drivers makes the roads more dangerous. Another individual stated anonymously, in response to the first comment, that he/she is in support of granting

exemptions to individuals who have minimal moving violations and that being in the program promotes a driver to maintain a safe driving record.

In regard to the two comments, the discussion under the heading, ''Basis for Exemption Determination,'' explains in detail the evaluation methods the Agency utilizes prior to granting an exemption to ensure that the granting of an exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency, and found that all 33 applicants met the Program's eligibility criteria. FMCSA will continue to monitor each applicant's driving safety record on a semi-annual basis to ensure continued compliance with the Program.

Another anonymous individual believes that if a driver has a driving history with the vision deficiency and he/she has had no accidents, then the process should not take so long.

The Agency has 180 days from the date a completed application is submitted to make a final determination whether to grant the exemption. FMCSA strives to expedite the processing of all applications received and is often successful in completing the process in less time. It is the Agency's responsibility to ensure that the granting of an exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption.

Conclusion

Based upon its evaluation of the 33 exemption applications, FMCSA exempts Kreis C. Baldridge, James L. Baynes, Daniel H. Bungartz, Thomas L. Carter, Orlando Colon, Donald D. Daniels, Jimmy W. Deadwyler, William E. Dolson, Michael A. Fouch, Paul R. Kerpsie, Gerald D. Larson, Carl A. Lohrbach, Donald R. McCracken, Sharon D. McDaniel, Larry E. McMillan, James E. Menz, William F. Nickel, Jeffrey L. Olson, John J. Payne, Chris H. Pedersen, Timmy J. Pottebaum, Jerald W. Rehnke, Donnie R. Riggs, Luis H. Sanchez, James A. Shepard, Timothy L. Shorey, Herbert W. Smith, Phillip L. Smith, Randall S. Surber, Roger A. Thein, Jr., Ernest W. Waff, Mikiel J. Wagner, and Joseph W. Wigley from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: February 23, 2007.

Larry W. Minor,

Office Director, Bus and Truck Standards and Operations.

[FR Doc. E7–3514 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26600]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemption from the diabetes standard; request for comments.

SUMMARY: FMCSA announces receipt of applications from 55 individuals for exemptions from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate commercial motor vehicles in interstate commerce.

DATES: Comments must be received on or before April 2, 2007.

ADDRESSES: You may submit comments identified by Department of Transportation (DOT) Docket Management System (DMS) Docket Number FMCSA–2006–26600 using any of the following methods:

- *Web Site: http://dmses.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *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 on-line instructions for submitting comments.

All submissions must include the Agency name and docket number for this Notice. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices. To read background documents or comments received, go to *http://dms.dot.gov* or to 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.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or 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 DMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov*, FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety

that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 55 individuals listed in this notice have recently requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statute.

Qualifications of Applicants

James F. Andrews

Mr. Andrews, age 43, has had ITDM since 2001. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Andrews meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from New Hampshire.

Roger D. Balzan

Mr. Balzan, 65, has had ITDM since 2001. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Balzan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

Ronald K. Barker

Mr. Barker, 55, has had ITDM since 1988. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Barker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

James A. Bettis

Mr. Bettis, 31, has had ITDM since 1984. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bettis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Missouri.

Daniel W. Bezdek

Mr. Bezdek, 26, has had ITDM since 1987. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bezdek meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

James A. Burchette

Mr. Burchette, 46, has had ITDM since 1996. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Burchette meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Andrew J. Causey

Mr. Causey, 27, has had ITDM since 2006. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Causey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

Ross E. Cheney

Mr. Cheney, 58, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cheney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Joan L. Chumney

Ms. Chumney, 50, has had ITDM since 2001. Her endocrinologist examined her in 2006 and certified that she has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Chumney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2006 and certified that she does not have diabetic retinopathy. She holds a Class D operator's license from Arizona.

Jerry R. Chandler

Mr. Chandler, 55, has had ITDM since 1967. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chandler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Alabama.

Leonard T. Coker

Mr. Coker, 56, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Coker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Georgia.

Robert S. Conchola, Sr.

Mr. Concohola, 51, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Conchola meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Robert M. Cottongim

Mr. Cottongim, 58 has had ITDM since 2004. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cottongim meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Don C. Doerfler

Mr. Doerfler, 39, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Doerfler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Frederick J. Fath

Mr. Fath, 59, has had ITDM since 2006. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fath meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Illinois.

Jason L. Freeseman

Mr. Freeseman, 19, has had ITDM since 2001. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Freeseman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Rusty W. Frost

Mr. Frost, 28, has had ITDM since 1984. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frost meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Mexico.

Marcel C. Gagnier

Mr. Gagnier, 53, has had ITDM since 2004. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gagnier meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Nevada

Steven A. Gibbs

Mr. Gibbs, 39, has had ITDM since 2001. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gibbs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Kenneth D. Gregory

Mr. Gregory, 61, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gregory meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Perry S. Green

Mr. Green, 49, has had ITDM since 1995. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Green meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Florida.

Paul M. Harris

Mr. Harris, 61, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harris meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Robert A. Hartung

Mr. Hartung, 50, has had ITDM since 1989. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hartung meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Michigan.

Andrew J. Hayek

Mr. Hayek, 41, has had ITDM since 1997. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hayek meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable proliferative diabetic retinopathy. He holds a Class B CDL from Wisconsin.

Gary L. Koehn

Mr. Koehn, 52, has had ITDM since 2003. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Koehn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Nebraska.

Randall B. Kutzke

Mr. Kutzke, 46, has had ITDM since 2003. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kutzke meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Michael J. Marlin

Mr. Marlin, 51, has had ITDM since 2004. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marlin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from North Carolina.

Marc K. Marsing

Mr. Marsing, 36, has had ITDM since 1990. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marsing meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Utah.

Frank J. Mattos

Mr. Mattos, 59, has had ITDM since 2004. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mattos meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy.

He holds a Class C operator's license from California.

Winfred A. McMurray

Mr. McMurray, 61, has had ITDM since 2006. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McMurray meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Carolina.

Edward T. Megee

Mr. Megee, 46, has had ITDM since 1987. His endocrinologist examined him in February 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Megee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmogist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C operator's license from California.

Steven T. Moody

Mr. Moody, 40, has had ITDM since 1972. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moody meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Alabama.

Paul E. Mougin

Mr. Mougin, 58, has had ITDM since 2006. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mougin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Timothy W. Nelson

Mr. Nelson, 49, has had ITDM since 1977. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nelson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Richard W. Newman

Mr. Newman, 51, has had ITDM since 1970. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Newman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable proliferative diabetic retinopathy. He holds a Class B CDL from New York.

Jamison P. Noel

Mr. Noel, 18, has had ITDM since 2003. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Noel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Iowa.

Rex S. Norquist

Mr. Norquist, 57, has had ITDM since 1999. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Norquist meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Steven B. Novak

Mr. Novak, 47, has had ITDM since 1999. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Novak meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Lawrence E. Olson

Mr. Olson, 58, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Olson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His

ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Washington.

Ronnie L. Patterson

Mr. Patterson, 51, has had ITDM since 2006. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Patterson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Benigno A. Piedra

Mr. Piedra, 45, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Piedra meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

David L. Rice

Mr. Rice, 41, has had ITDM since 1996. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rice meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Maine.

Emiliano Rios

Mr. Rios, 43, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rios meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Russell D. Rockefeller

Mr. Rockefeller, 43, has had ITDM since 2004. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rockefeller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Matthew T. Russell

Mr. Russell, 26, has had ITDM since 1987. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Russell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Larry V. Schwaller

Mr. Schwaller, 65, has had ITDM since 1990. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schwaller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class E operator's license from Missouri, which allows him to drive any non-commercial combination of motor vehicles with a gross vehicle weight less than 26,001 pounds.

Ellis D. Scott

Mr. Scott, 59, has had ITDM since 1997. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scott meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Alabama.

Scott Sheerer

Mr. Sheerer, 37, has had ITDM since 1986. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sheerer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Ohio.

Lowell P. Smith

Mr. Smith, 53, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the

past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Richard L. Strange

Mr. Strange, 56, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Strange meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Samuel G. Thiel

Mr. Thiel, 44, has had ITDM since 2002. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thiel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Dakota.

Robert J. Varetoni

Mr. Varetoni, 55, has had ITDM since 2003. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Varetoni meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Michael R. Vaupel

Mr. Vaupel, 26, has had ITDM since 1993. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vaupel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

David G. White

Mr. White, 41, has had ITDM since 1992. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2006 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alabama.

Ray W. Wright

Mr. Wright, 68, has had ITDM since 2005. His endocrinologist examined him in 2006 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wright meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmogist examined him in 2006 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Virginia.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

FMCSA notes that Section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) The elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) the establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 Notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 Notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 Notice, except as modified in the Notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: February 22, 2007.

Larry W. Minor,

Office Director, Bus and Truck Standards and Operations.

[FR Doc. E7–3515 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–EX–P

[1] Section 4129(a) refers to the 2003 Notice as a ''final rule.'' However, the 2003 Notice did not issue a ''final rule,'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Granted Buy America Waivers

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of granted Buy America waiver.

SUMMARY: The following waiver will permit ticket vending machine manufacturers to install and count as domestic for purposes of the Buy America Act, 49 U.S.C. 5323(j), as implemented by the Federal Transit Administration at 49 CFR part 661, the CashCode BB–10XX, MBB–01XX, MBB–03XX, MBB–04XX Bill Validators (collectively, the ''CashCode Bill Validators''). This waiver is valid for a period of two years, or until such time as a domestic source for the product becomes available, whichever occurs first. This notice shall ensure that the public is aware of the waiver. FTA requests that the public notify it if a domestic source for any of the above-listed products becomes available.

FOR FURTHER INFORMATION CONTACT: Jayme L. Blakesley, Attorney-Advisor, Federal Transit Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Room 9316, Washington, DC 20590–0001. E-mail: *jayme.blakesley@dot.gov.* Telephone: (202) 366–0304.

SUPPLEMENTARY INFORMATION: See waiver below.

Waiver: CashCode BB–10XX, MBB–01XX, MBB–03XX, MBB–04XX Bill Validators

Simcha Bielak, V.P. Sales & Marketing, Crane-CashCode, 553 Basaltic Road, Ontario, Canada L4K 4W8.

Re: Buy America Non-Availability Waiver for the CashCode BB–10XX, MBB–01XX, MBB–03XX, MBB–04XX Bill Validators

Dear Mr. Bielak:

This letter responds to your October 31, 2006, request for a Buy America non-availability waiver for your CashCode BB–10XX, MBB–01XX, MBB–03XX, MBB–04XX Bill Validators (collectively, the ''CashCode Bill Validators''), which are manufactured in Canada for use in ticket vending machines.[1] For the reasons below, I have determined that a non-availability waiver is appropriate here.

The Buy America Act requires, with few exceptions, that all steel, iron and manufactured goods used in FTA-funded projects be produced in the United States.[2] One such exception is that of non-availability—that in some instances steel, iron, and goods produced in the United States are not produced in the United States in sufficient and reasonably available quantities or are not of a satisfactory quality. Therefore, Congress authorized FTA to waive the above requirement and allow, based on non-availability, the use in an FTA-funded project of steel, iron or manufactured goods produced outside the United States.[3]

FTA verified non-availability of the CashCode Bill Validators by publishing the following notice on its Web site—*http://www.fta.dot.gov*—and the Docket Management System Web site—*http://www.dms.dot.gov*, Docket No. FTA–2006–26277—and allowing thirty days for public comment:

Crane-CashCode (''CashCode'') has requested a component non-availability waiver for its BB–10XX, MBB–01XX, MBB–03XX, and MBB–04XX Bill Validators (collectively, the ''CashCode Bill Validators''), manufactured in Canada for use in ticket vending machines. The CashCode Bill Validators (U.S. Patent Nos. 6,371,473 and 6,296,242) are able to accept, validate, and mechanically escrow up to twenty banknotes of various denominations at a time, can store bills in up to three recycling canisters to be recycled and dispensed or to be routed to a lockable, removable cassette. More information about the CashCode Bill Validators can be accessed on CashCode's Web site at *http://www.cashcode.com.* CashCode asserts that the CashCode Bill Validators, or their functional equivalent, are not available from a U.S. source. If granted, this waiver would permit ticket vending machine manufacturers to install the CashCode Bill Validators and count them as domestic for purposes of Buy America compliance.

Please note ''CashCode Bill Validators'' in the subject line and submit comments by close of business December 8, 2006, to *jayme.blakesley@dot.gov.* For more information on Buy America, please see 49 CFR 661.7(d) and 661.9(d).

Thirty days have passed since publication of the above notice, and no party has indicated that a U.S. manufacturer produces coin dispensing hoppers in sufficient and reasonably available quantities and of a satisfactory quality. Therefore, FTA hereby grants a non-availability waiver for the CashCode Bill Validators for a period of two years, or until such time as a domestic source for this type of unit becomes available, whichever occurs first. This waiver will permit ticket vending machine manufacturers to install the CashCode Bill Validators and count them as domestic for purposes of Buy America compliance.

If you have any questions, please contact Jayme L. Blakesley at (202) 366–0304 or *jayme.blakesley@dot.gov.*

Sincerely,

David B. Horner,
Chief Counsel,
Federal Transit Administration.

[1] The coin dispenser at issue here is a low-profile, bulk coin dispensing hopper module, a device able to hold a quantity of coins in a hopper and dispense them for ''change,'' one-by-one, in a secure and accurate manner upon electronic command.

[2] 49 U.S.C. 5323(j).

[3] 49 U.S.C. 5323(j)(2)(B).

Issued: February 22, 2007.

David B. Horner,

Chief Counsel.

[FR Doc. E7–3591 Filed 2–28–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8909

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8909, Energy Efficient Appliance Credit.

DATES: Written comments should be received on or before April 30, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Energy Efficient Appliance Credit.

OMB Number: 1545–2055.

Form Number: Form 8909.

Abstract: Form 8909, Energy Efficient Appliance Credit, was developed to carry out the provisions of new Code section 45M. This new section was added by section 1334 of the Energy Policy Act of 2005 (Pub. L. 109–58). The new form provides a means for the eligible manufacturer/taxpayer to compute the amount of, and claim, the credit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 7 hours 56 minutes.

Estimated Total Annual Burden Hours: 80.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 20, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–3527 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1363

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1363, Export Exemption Certificate.

DATES: Written comments should be received on or before April 30, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Export Exemption Certificate.

OMB Number: 1545–0685.

Form Number: Form 1363.

Abstract: Internal Revenue Code section 427(b)(2) exempts exported property from the excise tax on transportation of property. Regulation § 49.4271–1(d)(2) authorizes the filing of Form 1363 by the shipper to request tax exemption for a shipment or a series of shipments. The information on the form is used by the IRS to verify shipments of property made tax-free.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 4 hours, 30 minutes.

Estimated Total Annual Burden Hours: 450,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 22, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–3528 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4466

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4466, Corporation Application for Quick Refund of Overpayment of Estimated Tax.

DATES: Written comments should be received on or before April 30, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal

Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Corporation Application for Quick Refund of Overpayment of Estimated Tax.

OMB Number: 1545–0170.

Form Number: Form 4466.

Abstract: Section 6425(a)(1) of the Internal Revenue Code provides that a corporation may file an application for an adjustment of an overpayment of estimated income tax. Form 4466 is used for this purpose. The IRS uses the information on Form 4466 to process the claim, so the refund can be issued.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organzations.

Estimated Number of Respondents: 16,125.

Estimated Time Per Respondent: 4 hours, 44 minutes.

Estimated Total Annual Burden Hours: 76,433.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 23, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–3529 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[TD 8172]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). currently, the IRS is soliciting comments concerning an existing final regulation, TD 8172, Qualification of Trustee or Like Fiduciary in Bankruptcy (§ 301.6036–1).

DATES: Written comments should be received on or before April 30, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Qualification of Trustee or Like Fiduciary in Bankruptcy.

Omb Number: 1545–0773.

Regulation Project Number: TD 8172.

Abstract: Internal Revenue Code section 6036 requires that receivers, trustees in bankruptcy, assignees for the benefit of creditors, or other like fiduciaries, and all executors shall notify the district director within 10 days of appointment. This regulation provides that the notice shall include the name and location of the Court and when possible, the date, time, and place of any hearing, meeting or other scheduled action. The regulation also eliminates the notice requirement under section 6036 for bankruptcy trustees, debtors in possession and other fiduciaries in a bankruptcy proceeding.

Current Actions: There is no change to this existing regulation.

Type Of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 12,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 20, 2007.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–3530 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[TD 8223, TD 8432, and TD 8657]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final and temporary regulations, TD 8223, Branch Tax; TD 8432, Branch Profits Tax; and TD 8657, Regulations on Effectively Connected Income and the Branch Profits Tax (§§ 1.884–1, 1.884–2, 1.884–2T, 1.884–4, 1.884–5).

DATES: Written comments should be received on or before April 30, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: TD 8223, Branch Tax; TD 8432, Branch Profits Tax; and TD 8657, Regulations on Effectively Connected Income and the Branch Profits Tax.

OMB Number: 1545–1070.

Regulation Project Number: TD 8223, TD 8432, and TD 8657.

Abstract: These regulations provide guidance on how to comply with Internal Revenue Code section 884, which imposes a tax on the earnings of a foreign corporation's branch that are removed from the branch and which subjects interest paid by the branch, and certain interest deducted by the foreign corporation, to tax.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 28,500.

Estimated Time Per Respondent: 27 minutes.

Estimated Total Annual Burden Hours: 12,694.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 20, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–3531 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–9

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–9, Form 940 e-file Program.

DATES: Written comments should be received on or before April 30, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Form 940 e-file Program.

OMB Number: 1545–1710.

Revenue Procedure Number: Revenue Procedure 2001–9.

Abstract: Revenue Procedure 2001–9 provides guidance and the requirements for participating in the Form 940 e-file Program.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 390,685.

Estimated Time Per Respondent: 32 minutes.

Estimated Total Annual Burden Hours: 207,125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 20, 2007.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E7–3532 Filed 2–28–07; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Thursday,
March 1, 2007

Part II

Securities and Exchange Commission

17 CFR Parts 240 and 249
Proposed Rule Changes of Self-Regulatory Organizations; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–55341; File No. S7–06–07]

RIN 3235–AJ80

Proposed Rule Changes of Self-Regulatory Organizations

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is proposing to require Self-Regulatory Organizations (''SROs'') that submit proposed rule changes pursuant to Section 19(b)(7)(A) of the Securities Exchange Act of 1934 (''Act'') to file these rule changes electronically. In addition, the Commission is proposing to require SROs to post all such proposed rule changes on their Web sites. Together, the proposed amendments are designed to expand the electronic filing by SROs of proposed rule changes, making it more efficient and cost effective, and to harmonize the process of filings made under Section 19(b)(7)(A) with that already in place for filings made by SROs under Section 19(b)(1) of the Act.

DATES: Comments should be submitted on or before April 30, 2007.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–06–07 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–06–07. This file number should be included on the subject line if e-mail is used. To help us 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/proposed.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: John Roeser, Assistant Director, at (202) 551–5630, Timothy Fox, Special Counsel, at (202) 551–5543, Michou Nguyen, Special Counsel, at (202) 551–5634, Sherry Moore, Paralegal, at (202) 551–5549, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 19(b)(7) of the Act and Rule 19b–7 thereunder, securities futures exchanges registered with the Commission under Section 6(g) of the Act and associations registered with the Commission for the limited purpose of regulating activities of members who are registered as broker-dealers in security futures [1] with respect to securities futures products under Section 15A(k) of the Act are required to file certain categories of proposed rule changes with the Commission.[2] These proposed rule changes are published for comment and may take effect: (1) When a written certification has been filed with the Commodity Futures Trading Commission (''CFTC'') under Section 5c(c) of the Commodity Exchange Act; (2) when the CFTC determines that review of the proposed rule change is not necessary; or (3) when the CFTC approves the proposed rule change.[3] Rule 19b–7 and Form 19b–7 under the Act set forth the process for SROs to file proposed rule changes under Section 19(b)(7).

Currently, other SROs are required to electronically file proposed rule changes submitted to the Commission under Section 19(b)(1) of the Act.[4] SROs are also required to post such proposed rule changes on their Web sites.[5]

Proposed rule changes submitted by SROs under Section 19(b)(7) of the Act, in contrast, are submitted to the Commission in paper.[6] In addition, SROs are not currently required to post proposed rule changes filed under Section 19(b)(7) on their Web sites. The Commission is now proposing to amend Rule 19b–7 and Form 19b–7 to require electronic filing and Web posting of proposed rule changes filed under Section 19(b)(7) of the Act. These proposed requirements are consistent with the requirements already in place for proposed rule changes filed pursuant to Rule 19b–4 and Form 19b–4.

II. Proposed Amendments

A. Electronic Filing

The Commission is proposing to amend Rule 19b–7 and Form 19b–7 to require that all Forms 19b–7, and any amendments thereto, be submitted electronically to the Commission. The proposal would modernize this rule filing process by expanding the types of proposed rule changes filed electronically with the Commission. Each SRO would have access to a secure Web site, known as the Electronic Form Filing System (''EFFS''), which would enable authorized individuals at the SRO to file with the Commission an electronic Form 19b–7 on the SRO's behalf.[7] The current requirement in Form 19b–7 that SROs submit multiple, paper copies of proposed rule changes would be eliminated.[8] Under the proposed amendments, a proposed rule change would be deemed filed with the Commission on the business day that it is submitted electronically, so long as the Commission receives it on or before

[1] *See* Section 15(b)(11) of the Act, 15 U.S.C. 78*o*(b)(11).

[2] Section 19(b)(7) of the Act. 15 U.S.C. 78s(b)(7). Specifically, under Section 19(b)(7), these SROs submit those proposed rule changes that relate to higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating the SRO's obligation to enforce the securities laws. *Id.*

[3] Section 19(b)(7)(B) of the Act. 15 U.S.C. 78s(b)(7)(B). Proposed rule changes that relate to margin, except for those that result in higher margin levels, must be filed pursuant to Sections 19(b)(1) of the Act. 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4. *See* Securities Exchange Act Release No. 50486 (October 4, 2004), 69 FR 60287 (October 8, 2004) (File No. S7–18–04) (''Electronic 19b–4 Adopting Release'').

[5] 17 CFR 240.19b–4(m).

[6] *See* Securities Exchange Act Release No. 44692 (August 13, 2001), 66 FR 43721 (August 20, 2001), (19b–7 Adopting Release).

[7] The SRO would determine which individuals would be supplied with User IDs and passwords to access the secure Web site. *See infra* note 11 and accompanying text.

[8] Occasionally, an SRO may find it necessary to file documents that cannot be submitted electronically, such as comment letters submitted to the Exchange before filing, or other exhibits. In addition, it may not be appropriate to require proprietary and other information subject to a request for confidential treatment to be filed electronically. Accordingly, the proposed amendments to Rule 19b–7 and Form 19b–7 would retain the flexibility to permit portions of a rule filing to be made in paper form under limited circumstances. For example, the Commission would permit SROs to file materials for which confidential treatment is requested in paper format.

5:30 p.m., Eastern Standard Time or Eastern Daylight Savings Time, whichever is currently in effect, and it is filed in accordance with the requirements of Rule 19b–7 and Form 19b–7.

The Commission also proposes to amend Form 19b–7 so that SROs would be required to file their proposed rule changes with an electronic signature.[9] Form 19b–7 currently requires a person who is ''duly authorized'' by an SRO to sign manually all rule filings.[10] Under the proposal, each duly authorized signatory would be required to obtain a ''digital ID,'' which would provide both the Commission and the SRO with assurances of the authenticity and integrity of the electronically-submitted Form 19b–7.[11] In addition, each signatory would be required to manually sign the Form 19b–7, authenticating, acknowledging, or otherwise adopting his or her electronic signature that is attached to or logically associated with the filing. In accordance with Rule 17a–1 under the Act,[12] the SRO would be required to retain that manual signature page of the rule filing, authenticating the signatory's electronic signature, for not less than five years after the Form 19b–7 is filed with the Commission and, upon request, furnish a copy of it to the Commission or its staff.[13]

[9] The Commission notes that the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, *et seq.* does not apply in this regard.

[10] The signature requirement of Form 19b–7 currently states that ''pursuant to the requirements of the [Act], the [SRO] has duly caused the filing to be signed on its behalf by the undersigned thereunto duly authorized.'' *See* 17 CFR 249.822. The Commission proposes to clarify on Form 19b–7 that this individual must be an officer of the SRO, who has been authorized by the SRO's governing body to sign proposed rule changes on behalf of the SRO. The General Instructions to Form 19b–7 currently provide that the ''chief executive officer, general counsel, or other officer or director of the SRO that exercises similar authority must manually sign at least one copy of the completed Form 19b–7.'' Therefore, the proposed clarification would not impose a new obligation for SRO officers.

[11] A digital ID, sometimes called a ''digital certificate,'' is a file on the computer that identifies the user. Computers can use a digital ID to create a digital signature that verifies both that the message originated from a specific person and that the message has not been altered either intentionally or accidentally. The user obtains a digital ID from a ''Certificate Authority'' (''CA'') for a modest sum (currently approximately $20 per year). When the SRO electronically sends the Form 19b–7 to the Commission, the digital ID will encrypt the data through a system that uses ''key pairs.'' With key pairs, the SRO's software application uses one key to encrypt the document. When the Commission receives the SRO's electronic document, the Commission's software will use a matching key to decrypt the document.

[12] 17 CFR 240.17a–1.

[13] *See* Proposed Rule 19b–7(d). These requirements are substantially consistent with the requirements for Form 19b–4 filings, which were adapted from Section 232.302 of Regulation S–T, 17 CFR 232.302 for EDGAR filers.

Based on the Commission's experience receiving electronic Rule 19b–4 filings from SROs for nearly two years, the Commission believes that requiring SROs to file proposed rule changes on Form 19b–7 electronically would have many benefits. First, the Commission believes electronic filing would reduce the amount of time required by SROs to submit SRO rule filings by eliminating paper delivery, photocopying, and distribution. Under the current system, SROs send paper copies of proposed rule changes filed under Rule 19b–7 to the Commission via messenger, overnight delivery, or U.S. mail. Electronic filing would reduce costs for the SROs[14] because the SROs would no longer incur costs for delivery of paper filings or for the SRO staff time currently devoted to preparing filing packages. The Commission also would benefit from reducing the personnel time currently associated with manually processing paper filings.

Second, electronic filing would allow for a more efficient use of Commission resources by integrating the SRO electronic filing technology with SRO Rule Tracking System (''SRTS''), the internal Commission database that tracks these filings, the proposal would enable Commission staff to more easily monitor and process proposed rule changes. Pertinent information regarding proposed rule changes, as well as amendments, would be captured automatically by SRTS. As a result, Commission staff would be able to monitor electronically the progress of proposed rule changes filed on Form 19b–7 from initial receipt through final disposition and thereby enhance its management of the rule filing process.

B. Posting of Rule 19b–7 Proposed Rule Changes on SRO Web Sites

The Commission also is proposing to amend Rule 19b–7 to require each SRO to post proposed rule changes filed pursuant to that Rule, and any amendments thereto, on its public Web site no later than two business days after filing with the Commission.[15] This requirement would provide interested persons with quick access to the proposed rule change, while at the same time providing SROs with sufficient time to comply with this posting requirement. The complete proposed rule change would be available in the Commission's Public Reference Room in electronic format. The Commission believes that Web site accessibility of SRO proposed rule changes filed under Section 19(b)(7) of the Act would (1) provide interested persons with faster access to proposed rule changes; (2) facilitate the ability of interested persons to comment on the proposals; and (3) save SRO resources currently used to monitor the Commission's Public Reference Room for competitors' proposed rule changes.

The Commission is also proposing to require an SRO to remove a proposed rule change from its Web site within two business days of Commission notification to the SRO that such proposed rule change was not properly filed,[16] or of the SRO's withdrawal of such proposed rule change.

C. Requirement To Update Rule Text on SRO Web Sites

Currently, Rule 19b–4(m) under the Act[17] requires all SROs to post and maintain on their Web sites a complete and accurate copy of their rules. This requirement currently applies to SROs that file proposed rule changes under Section 19(b)(7) of the Act. The Commission is not proposing to change this requirement. All SROs would continue to be required to post and maintain a complete and accurate copy of their rules. The Commission is proposing to add paragraph (g) to Rule 19b–7 to clarify that an SRO would be required (1) to post and maintain a current and complete version of its rules on its Web site and (2) to update the rules posted on its Web site within two days after a rule change becomes effective. The Commission believes that this proposal clarifies when an SRO must update the rules posted on its Web site to reflect proposed rule changes filed under Rule 19b–7.

D. Form 19b–7 Amendments

1. Form 19b–7 Amendments

The Instructions to Form 19b–7 would be amended to eliminate the required submission of nine paper copies and instead require electronic filing of Form 19b–7.[18] To access the secure Internet site for Web-based filing of the Form 19b–7, the SRO would submit to the Commission an External Application User Authentication Form

[14] *See infra* notes 42–44 and accompanying text.

[15] Rule 19b–4 requires SROs to post proposed rule changes filed under Section 19(b)(1), and any amendments thereto, on their Web site within two business days after the filing of the proposed rule change. 17 CFR 240.19b–4(*l*).

[16] A screen within EFFS, the Web-based electronic rule filing system, would indicate that a rule filing has not been properly filed and has been returned to the SRO.

[17] 17 CFR 240.19b–4(m).

[18] The proposed amendments to Form 19b–7 are attached as Appendix A.

(''EAUF'')[19] to register each individual at the SRO who will be submitting Forms 19b–7 on behalf of the SRO. Upon receipt and verification of the information in the EAUF process, the Commission would issue each such person a User ID and Password to permit access to the Commission's secure Web site. As Form 19b–7 would be electronic, initially the authorized user at an SRO would access a screen containing a filing template, referenced as Page 1, in which it could identify the SRO, enter a brief description of the proposed rule change, and enter a brief description of the SRO governing body action approval.[20] The SRO would provide contact information and place the electronic signature of a duly authorized officer on this Page 1 initial screen.[21] Only a duly authorized officer of the SRO would be authorized to affix his or her digital signature to the Form 19b–7. The second screen of the electronic Form 19b–7 would provide the SRO with a means to attach the proposed rule change and related exhibits in Microsoft Word format.[22] EAUF users would have electronic access to the general instructions for using the Form, as adapted for electronic filing.[23] Finally, the SRO would use the electronic Form 19b–7 to amend or withdraw a rule filing pending with the Commission.

The Commission is also proposing a number of changes to Form 19b–7, unrelated to electronic filing, that are modeled after certain provisions in Form 19b–4, which the Commission preliminarily believes would facilitate an SRO's proper filing of Form 19b–7. For example, the format of the Instructions to Form 19b–7 would be organized according to the sections used for Form 19b–4 Instructions, instead of the combination of questions and titles that serve as subject heads in the Instructions to Form 19b–7 currently. The proposed Form 19b–7 would require the SRO to describe the purpose of the proposed rule change in sufficient detail to enable the public to provide meaningful public comment. The Form 19b–7 would direct the SRO to relevant sections of the Act that are appropriate for discussion in the Statutory Basis section of the Form 19b–7 and would clarify that a mere assertion that the proposed rule change is consistent with the Act is not sufficient to describe why the proposed rule change is consistent with the Act. The proposed Form 19b–7 would also provide updated instructions related to the solicitation of comments from interested persons regarding the proposed rule change. These updated instructions would include the new address where commenters may direct comments to Form 19b–7 filings in hard copy and describe the manner in which comments may submitted on the SEC Web site.

The proposed changes to Form 19b–7 would alter the way that the Exhibits are organized and the Instructions to such Exhibits are presented. For example, the proposed Instructions would direct an SRO to include the completed notice of the proposed rule change (''Form 19b–7 Notice'' or ''Notice'') as Exhibit 1, whereas such notice is not assigned to an Exhibit in the existing Form 19b–7. The instructions for the Form 19b–7 Notice would be amended to include more detailed guidance on the current requirement that the Notice must be formatted to comply with the requirements for **Federal Register** publication. For example, the proposed Instructions would provide guidance regarding **Federal Register** requirements relating to margin spacing, page numbering, and line spacing.

The subject of existing Exhibit 1, relating to communications with third parties on the subject of the proposed rule change, would move to Exhibit 2. The guidance in the existing Instructions to Exhibit 2 would be replaced, in Exhibit 3, with more detailed guidance as to how the SRO should present forms, reports, and questionnaires that the SRO proposes to use to implement the terms of the proposed rule change. The requirement to include the text of the proposed rule change would remain in Exhibit 4, but the requirement for the SRO to describe the anticipated effect of the proposed rule change would have on the application of other rules of the SRO would move to Section II(A)(1)(b) of the Form 19b–7 Notice. The requirements relating to Exhibit 5, regarding the effectiveness of the proposed rule change, would remain the same.

The Instructions to Form 19b–7 currently describe circumstances under which an SRO must file an amendment to a proposed rule change and the procedures an SRO must follow when submitting an amendment. The proposed changes to the Instructions to Form 19b–7 would describe the procedures an SRO would follow to submit an amendment electronically.

In addition, the Commission notes that Form 19b–7 will continue to require an SRO to: (1) Describe the text of the proposed rule change in a sufficiently detailed and specific manner as to permit interested persons to submit comments; (2) describe the reasons for adopting the proposed rule change, how the proposal will address any problems described in the proposed rule change, and the manner in which the proposed rule change will affect various market participants; (3) describe how the filing relates to existing rules of the SRO;[24] and (4) provide an accurate statement of the authority and statutory basis for, and purpose of, the proposed rule change, as well as its impact on competition, if any, and a summary of any written comments received by the SRO.

As noted above, the Commission recognizes that in rare circumstances SROs may be unable to file certain documents electronically with the Commission. Therefore, under these limited circumstances, the Commission would allow SROs to file documents in paper format within five days of the electronic filing of all other required documents.[25]

2. Accurate, Consistent, and Complete Forms 19b–7

The Commission firmly believes that, to provide the public with a meaningful opportunity to comment, a proposed rule change must be accurate, consistent, and complete. Form 19b–7 states that the form, including the exhibits, is intended to elicit information necessary for the public to provide meaningful comment on the proposed rule change and for the Commission to determine whether abrogation of the proposal is appropriate because it unduly burdens competition or efficiency, conflicts with the

[19] This Commission Web-based application currently exists and allows authorized external users to access select Commission systems.

[20] The authorized user also would be able to indicate if there would be a separate filing of any hard copy exhibits that are unable to be submitted electronically.

[21] As noted *supra* notes 9–11, and accompanying text, a person who is a ''duly authorized officer'' at the SRO would be required to place his or her ''electronic signature'' on the Form 19b–7 before it is transmitted electronically to the Commission.

[22] Exhibits 2, 3, and 5 may not be available in Microsoft Word and could be submitted in another acceptable electronic format, including Microsoft Excel, Microsoft PowerPoint, Adobe Acrobat, or Corel WordPerfect.

[23] For example, the SRO would click separate boxes on the second screen to attach documents containing the various exhibits; notices, written comments, transcripts, other communications; form, report, or questionnaire; proposed rule text; CFTC certification; the completed notice of the proposed rule change for publication in the **Federal Register**; and, marked copies of amendments if applicable.

[24] 17 CFR 249.822.

[25] This exception from electronic filing would not apply to Page 1 to Form 19b–7 or Exhibits 1 and 4 thereto but would only be applicable to Exhibits 2 and 3, and any documents filed pursuant to a request for confidential treatment pursuant to the Freedom of Information Act, 5 U.S.C. 552.

securities laws, or is inconsistent with the public interest and protection of investors.[26] The SRO must provide all the information called for by the form, including the exhibits, and must present the information in a clear and comprehensible manner.

Currently, Commission staff devotes significant time to processing proposed rule changes, reviewing them for accuracy and completeness, and preparing them for publication. SRO staff should ensure that the filings: (1) Contain a properly completed Form 19b–7; (2) contain a clear and accurate statement of the authority for, and basis and purpose of, such rule change, including the impact on competition; (3) contain a summary of any written comments received by the SRO; (4) contain the proper certification submitted to the CFTC, any other appropriate determination made by the CFTC that a review of the proposed rule change is not necessary, or an indication that the CFTC has approved the proposed rule change; and (5) describe the impact of the proposed rule change on the existing rules of the SRO, including any other rules proposed to be amended. As described in the current Form 19b–7, filings that do not comply with the foregoing are deemed not filed and returned to the SRO. In the future, electronically filed proposed rule changes that do not comply with the foregoing would continue to be returned to the SRO, but in electronic format, and, consistent with current practice, would be deemed not filed with the Commission until all required information has been provided.

E. Rule 19b–4 and Form 19b–4 Conforming Changes

The Commission also is proposing to make certain conforming changes to Rule 19b–4 to account for the proposed amendments to Rule 19b–7. In particular, the Commission proposes to remove a reference in paragraph (m) of Rule 19b–4 relating to the requirement that SROs update their Web sites to reflect proposed rule changes filed pursuant to Section 19(b)(7) of the Act. This requirement is proposed to be incorporated into new paragraph (g) of Rule 19b–7. The Commission is also proposing to make other changes to paragraph (m) of Rule 19b–4 to clarify that the obligation for SROs to update their Web sites to reflect proposed rule changes under this provision applies only to proposed rule changes filed under Section 19(b)(1) of the Act.

The Commission further proposes to clarify on Form 19b–4 that an individual who signs the Form 19b–4 digitally must be an officer authorized by the SRO's governing body to sign proposed rule changes on behalf of the SRO. Accordingly, the Commission proposes to amend Page 1 of Form 19b–4 to add the word ''officer'' to follow the phrase ''duly authorized'' in the signature box appearing on that page.[27] The Commission notes that this change does not create any new obligation. Section F of the Instructions to Form 19b–4 provides that a ''duly authorized officer'' sign Form 19b–4 submissions, but the word ''officer'' was inadvertently omitted from the signature box when the electronic Form 19b–4 was adopted.[28]

III. Request for Comment

The Commission requests the views of commenters on all aspects of the proposed amendments, discussed above, to Rule 19b–7 and Form 19b–7, and to Rule 19b–4 and Form 19b–4 under the Act:

- In particular, the Commission requests comment on whether there is a need for an exception to the electronic filing requirement of Exhibit 5 to Form 19b–7 (Date of Effectiveness of Proposed Rule Change). If so, what specific situations should be excepted, and what accommodations should be made?
- Would the proposed amendment create additional costs or other burdens for SROs that submit Form 19b–7s?

IV. Paperwork Reduction Act

Certain provisions of the proposed rule and form contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995.[29] The Commission has submitted the information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. The Commission has submitted revisions to the current collection of information titled ''Rule 19b–7 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0553). The Commission has also submitted revisions to the current collection of information titled ''Form 19b–7 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0553). In addition, the Commission has submitted revisions to the current collection of information titled ''Rule 19b–4 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0045). Finally, the Commission has submitted revisions to the current collection of information titled ''Form 19b–4 Under the Securities Exchange Act of 1934'' (OMB Control No. 3235–0045). 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.

A. Summary of Collection of Information

Rule 19b–7 currently requires an SRO that proposes to add, delete, or amend its rules relating to certain subjects [30] to submit such proposed rule change to the Commission on Form 19b–7. Form 19b–7 currently requires the respondent: (1) To state the purpose of the proposed rule change; (2) to state the authority and statutory basis for the proposed rule change; (3) to describe the proposal's impact on competition; (4) to provide a summary of any written comments on the proposed rule change received by the SRO; and (5) to describe the date upon which the proposed rule change becomes effective and provide supporting documentation relevant to the effectiveness date. The proposed amendments would add a technical requirement to Form 19b–7 that an SRO provide on Page 1 of Form 19b–7 more information about a staff member prepared to answer questions about the filing, such as the SRO staff member's title, email address and fax number. The proposed amendments would require Web site posting of all proposed rule changes, and any amendments thereto. In addition, the proposed amendments would codify in Rule 19b–7 the current requirement in Rule 19b–4(m) that SROs (1) post a current and complete set of their rules on their Web sites and (2) update their Web sites within two business days after a rule change becomes effective to reflect such rule changes filed pursuant to Section 19(b)(7) of the Act. The proposed amendment would also clarify that a mere assertion that the proposed rule change is consistent with the Act is not sufficient to describe why the proposed rule change is consistent with the Act. Rule 19b–4(m) would continue to require SROs to update their rules on their Web sites to reflect proposed rule changes filed pursuant to Section 19(b)(1) of the Act. All SROs that file Form 19b–4 and Form 19b–7 currently

[26] Section 19(b)(7)(C) of the Act grants to the Commission, after consultation with the CFTC, the authority to summarily abrogate a proposed rule change that has taken effect pursuant to Section 19(b)(7)(B) of the Act if it appears to the Commission that such a rule change unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors.

[27] The proposed amendment to Form 19b–4 is attached as Appendix B.

[28] *See* Electronic 19b–4 Adopting Release, *supra* note 4.

[29] 44 U.S.C. 3501 *et seq.*

[30] *See* 15 U.S.C. 78f(g)(4)(B)(i) and 78*o*–3(k)(3)(A).

post this information on their Web sites. Therefore, SROs would not be required to provide additional information to comply with proposed Rule 19b–7(g) and current Rule 19b–4(m).

B. Proposed Use of Information

The information provided via EAUF, as required by the proposed amendments to Form 19b–7, would be used by the Commission to verify the identity of the SRO individual and provide such individual access to a secure Commission Web site for filing of the Form 19b–7. The Commission proposes to require that SROs post their proposed rule changes filed pursuant to Section 19(b)(7) of the Act on their Web sites, so that these proposals could be viewed by the general public, SRO members, competing SROs, other market participants, and Commission staff. The information would enable interested parties to more easily access SRO rules and rule filings, which would facilitate public comment on proposed SRO rules. Additionally, SRO staff, members, industry participants, and Commission staff would utilize the accurate and current version of SRO rules that are posted on the SRO Web site to facilitate compliance with such rules.

C. Respondents

There are currently five SROs [31] registered with the Commission as national securities exchanges under Section 6(g) of the Act or as a national securities association registered with the Commission under Section 15A(k) of the Act subject to the collection of information for Rule 19b–7, though that number may vary owing to the consolidation of SROs or the introduction of new entities. In a fiscal year, these respondents filed an average of 12 rule change proposals and 3 amendments to those proposed rule change proposals, for an average of 15 filings per fiscal year that are subject to the current collection of information.[32] Of the 12 proposed rule changes filed by SROs, all 12 ultimately became effective because the SROs did not withdraw any proposed rule changes.

D. Total Annual Reporting and Recordkeeping Burden

1. Background

The proposed amendments to Rule 19b–7 and Form 19b–7 are designed to modernize the SRO rule filing process and to make the process more efficient by conserving both SRO and Commission resources. Rule 19b–7 and Form 19b–7 would be amended to require SROs to electronically file their proposed rule changes. Form 19b–7 would be revised to accommodate electronic submission. In addition, SROs would be required to post on their Web sites proposed rule changes submitted on Form 19b–7 to the Commission and amendments thereto. A conforming amendment would codify in Rule 19b–7 the current requirement in Rule 19b–4(m) for SROs to maintain a current and complete set of their rules on their Web site.

2. Rule 19b–7 and Form 19b–7

The Commission does not expect that the amendments to Rule 19b–7 and Form 19b–7 relating to electronic filing of proposed rule changes and amendments would impose any material upfront cost on SROs. The technology for electronic filing would be Web-based; therefore, the SROs should not have any material upfront technology expenditures for electronic filing because all SROs currently have access to the Internet.

However, each SRO would be required to obtain a digital ID from a certificating authority. The Commission staff estimates the annual cost of the ID to be $20 for each SRO.[33] The Commission staff estimates that each SRO would purchase five such digital IDs for its staff. Thus, the annual cost of the ID for all SROs would be $500 (5 SROs × $20 × 5).

In addition, the Commission believes that SROs could incur some costs associated with training their personnel about the procedures for submitting proposed rule changes electronically via EFFS. However, the Commission believes that such costs will be one-time costs and relatively insubstantial since the SROs are already familiar with the information required in filing a proposed rule change with the Commission and would only be required to submit the same information electronically under this proposal. Based on the experience of the Commission staff in training SROs for the implementation of electronic Rule 19b–4 filings, the Commission estimates that each SRO would spend approximately two hours training each staff member who would use the EFFS to submit the proposed rule changes electronically. Accordingly, the Commission estimates that the upfront cost of training SRO staff members to use EFFS will be 50 hours (5 SROs × 2 hours × 5 staff members).

An SRO rule change proposal is generally filed with the Commission after an SRO's staff has obtained approval by its Board. The time required to complete a filing varies significantly and is difficult to separate from the time an SRO spends in developing internally the proposed rule change. However, the Commission estimates that 15.5 hours is the amount of time required to complete an average rule filing using present Form 19b–7.[34] This figure includes an estimated 11.5 hours of in-house legal work and four hours of clerical work. The amount of time required to prepare amendments varies because some amendments are comprehensive, while other amendments are submitted in the form of a one-page letter. The Commission staff estimates that, under current rules, seven hours is the amount of time required to prepare an amendment to the rule proposal. This figure includes an estimated two hours of in-house legal work and five hours of clerical work.

Based upon the experience of electronic filing of proposed rule changes on Form 19b–4, the Commission expects that an electronic Form 19b–7 and new requirements to Form 19b–7 would reduce by three hours the amount of SRO clerical time required to prepare the average proposed rule change and by four hours for an amendment thereto. The Commission does not believe that the new instruction specifying that an SRO describe the purpose of the proposed rule change in sufficient detail to enable the Commission to determine whether abrogation is appropriate will add any additional burden to the Form 19b–7 filing process because the existing Instructions to Form 19b–7 provide an obligation that all information in the Form must be presented in a manner which will enable the Commission to make such a determination. The Commission does not believe that the additional contact information of an SRO staff member on Page 1 of the Form will add any measurable burden to an SRO submitting a Form 19b–7, because the information is so readily accessible to the party submitting the filing. With the proposed electronic filing, the

[31] The Board of Trade of the City of Chicago, Inc. (''CBOT''), Chicago Mercantile Exchange, Inc. (''CME''), CBOE Futures Exchange LLC (''CFE''), National Futures Association (''NFA''), and OneChicago LLC (''OC'').

[32] Since the implementation of the CFMA in 2001 to September 30, 2006, SROs have filed 62 proposed rule changes pursuant to Section 19(b)(7) of the Act and 13 amendments.

[33] This estimate is based upon the price displayed for the ID on VeriSign's Web site as of December 21, 2006.

[34] *See* 19b–7 Adopting Release *supra* note 6.

Commission staff estimates that 12.5 hours is the amount of time that would be required to complete an average rule filing and that three hours is the amount of time required to complete an average amendment. These figures reflect the three hours in savings in clerical hours that would result from the use of an electronic form for rule filings and four hours for amendments.[35] The Commission staff estimates that the reporting burden for filing rule change proposals and amendments with the Commission under the proposed amendments would be 159 hours (12 rule change proposals × 12.5 hours + 3 amendments × 3 hours).

3. Posting of Proposed Rule Changes Filed Under Rule 19b–7 on SRO Web Sites

The proposed amendments would also require SROs to post proposed rule changes filed under Rule 19b–7, and any amendments thereto, on their Web sites. The Commission staff estimates that 30 minutes is the amount of time that would be required to post a proposed rule on an SRO's Web site and that 30 minutes is the amount of time that would be required to post an amendment on an SRO's Web site.[36] The Commission staff estimates that the reporting burden for posting rule change proposals and amendments on the SRO Web sites would be eight hours (12 rule change proposals × 0.5 hours + 3 amendments × 0.5 hours).

4. SRO Rule Text

Currently, all SROs are required to post their current rules on their Web sites pursuant to Rule 19b–4(m). The Commission estimates, based upon its analysis in the Electronic 19b–4 Adopting Release, that the amount of time required to update an SRO's rule text on its Web site after a proposed rule change becomes effective to be four hours. Proposed rule changes submitted under Section 19(b)(7)(A) become effective an average of 12 times a year. Therefore, the Commission staff estimates that the reporting burden for updating the posted SRO rules on the SRO Web site will be 48 hours (12 proposed rule changes submitted pursuant to Section 19(b)(7)(A) × 4 hours).

The proposal would move the burden associated with complying with this provision from Rule 19b–4(m) to Rule 19b–7(g). Based upon the Commission's reporting burden estimate described above, the Commission estimates that the proposal will reduce the burden associated with SROs' compliance with the requirement provided in Rule 19b–4 that SROs post current and complete rule text on their Web sites and update that rule text after it changes following the effectiveness of a proposed rule change by 48 hours annually and increase the corresponding burden for compliance with Rule 19b–7 by 48 hours.

5. Total Annual Reporting Burden

Thus, the Commission staff estimates that the total annual reporting burden under the proposed rule would be 167 hours (159 hours for filing proposed rule changes and amendments + 8 hours for posting proposed rule changes and amendments on the SROs' Web sites + 48 hours for posting and updating complete sets of SRO rule text pursuant to Rule 19b–7 − 48 hours for posting and updating complete sets of SRO rule text pursuant to Rule 19b–4).

In addition to the 155 hour annual burden, the Commission believes that SROs could incur some costs associated with training their personnel about the procedures for submitting proposed rule changes electronically and submission of the information via EFFS. However, the Commission believes that such costs would be one-time costs and relatively insubstantial since the SROs are already familiar with the information required in filing a proposed rule change with the Commission and would only be required to submit the same information electronically under this proposal. The Commission estimates that each SRO would spend approximately two hours training each staff member who will use the EFFS to submit the proposed rule changes electronically. Accordingly, the Commission estimates that the upfront cost of training SRO staff members to use EFFS would be 50 hours (5 SROs × 2 hours × 5 staff members).

The Commission does not expect that the proposed amendments with regard to electronic filing would impose any material additional costs on SROs. Instead, the Commission believes that the proposed amendments to Rule 19b–7 and Form 19b–7, on balance, would reduce paperwork costs related to the submission of SRO proposed rule changes. The technology for electronic filing would be Web-based; therefore, the SROs should not have any technology expenditures for electronic filing because all SROs currently have access to the Internet.

As previously stated, the SROs could incur costs of eight hours annually to post on their Web site their proposed rules, and amendments thereto, no later than two business days after filing with the Commission. With regard to posting of and updating of accurate and complete text of SRO final rules, the Commission believes that the proposal would increase the burden associated with complying with Rule 19b–7 by 48 hours and reduce the burden associated with complying with Rule 19b–4 by 48 hours. In addition, the Commission does not anticipate that SROs would incur any additional costs in complying with the change to Form 19b–4, which proposes to add the word ''officer'' to the Signature Box because the addition of the word simply provides transparency to an obligation that already exists.[37] Accordingly, the Commission does not believe that SROs would incur any additional costs in posting this information on their Web sites.

E. Retention Period of Recordkeeping Requirements

The SROs would be required to retain records of the collection of information (the manually signed signature page of the Form 19b–7) for a period of not less than five years, the first two years in an easily accessible place, according to the current recordkeeping requirements set forth in Rule 17a–1 under the Act.[38] The SROs would be required to retain proposed rule changes, and any amendments, on their Web sites until 60 days after effectiveness of the proposed rule that is filed with both the Commission and the CFTC or abrogation of the proposed rule change.[39] The SRO would be required at all times to maintain an accurate and up-to-date copy of all of its rules on its Web site.[40]

F. Collection of Information Is Mandatory

Any collection of information pursuant to the proposed amendments to Rule 19b–7 and Form 19b–7 to require electronic filing with the Commission of SRO proposed rule changes would be a mandatory collection of information filed with the Commission as a means for the Commission to review, and, as required, take action with respect to SRO proposed rule changes. Any collection of information pursuant to the proposed

[35] The SROs' four hour time savings would result from the elimination of tasks, such as making multiple copies of the Form 19b–7 and amendments, arranging for couriers, and making follow-up telephone calls to ensure Commission receipt.

[36] This estimate is based on information from the Commission's Office of Information Technology.

[37] *See* Section F of the Instructions to Form 19b–4.

[38] SROs may also destroy or otherwise dispose of such records at the end of five years according to Rule 17a–5 under the Act. 17 CFR 240.17a–5.

[39] See proposed Rule 19b–7(f).

[40] See proposed Rule 19b–7(g).

amendments to require Web site posting by the SROs of their proposed and final rules would also be a mandatory collection of information.

G. Responses to Collection of Information Will Not Be Kept Confidential

Other than information for which an SRO requests confidential treatment and which may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, the collection of information pursuant to the proposed amendments to Rule 19b–7 and Form 19b–7 under the Act would not be confidential and would be publicly available.[41]

H. Request for Comment

Pursuant to 44 U.S.C. 3505(c)(2)(B), the Commission solicits comments to:

1. Evaluate whether the proposed collection of information is necessary for the performance of the functions of the agency, including whether the information shall 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 collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, DC 20503; and (2) Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090 with reference to File No. S7–06–07. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The Commission has submitted the proposed collection of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7–06–07, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, Station Place, 100 F Street, NE., Washington, DC 20549.

V. Costs and Benefits of the Proposed Rulemaking

The Commission is considering the costs and benefits of the proposed amendments to Rule 19b–7 and Form 19b–7 discussed above. As noted above, the Commission staff estimates that the total annual paperwork reporting burden under the proposed rule would be 155 hours. The Commission staff, however, believes that there would be an overall reduction of costs based on the proposed amendments.[42] The Commission encourages commenters to identify, discuss, analyze, and supply relevant data regarding any such costs or benefits.

A. Benefits

The proposed amendments are designed to modernize the filing, receipt, and processing of SRO proposed rule changes and to make the SRO rule filing process more efficient by conserving both SRO and Commission resources. The Commission believes that the proposed changes to Rule 19b–7 and Form 19b–7 would permit SROs to file proposed rule changes with the Commission more quickly and economically. For example, SROs are currently required to pay for delivery costs of multiple paper copies to the Commission, as well as the costs associated with monitoring the Commission's Public Reference Room for competitors' rule filings. Requiring SROs to electronically file proposed rule changes under Rule 19b–7 should reduce expenses associated with clerical time, postage, and copying and should increase the speed, accuracy, and availability of information beneficial to investors, other SROs, and financial markets.

The Commission does not expect that the proposed amendments would impose additional costs on SROs. Instead, the Commission believes that the proposed amendments to Rule 19b–7 and Form 19b–7, on balance, would reduce costs related to the submission of SRO proposed rule changes. The technology for electronic filing would be web-based; therefore, the SRO should not have any material increase in technology expenditures for electronic filing because all SROs currently have access to the Internet. Accordingly, the Commission believes that the proposed amendments to Rule 19b–7 and Form 19b–7, by requiring the SROs to submit proposed rule changes electronically, would reduce their costs.

Because Commission staff would no longer manually process the receipt and distribution of SRO rule filings submitted on Form 19b–7, electronic filing would also expedite the Commission's receipt of SRO proposed rule changes filed under Rule 19b–7 and provide the SROs with the certainty that the Commission has received the proposed rule changes and has captured pertinent information about the rule changes in SRTS. Based on the Commission's experience with electronic filing of Form 19b–4, the Commission believes that integrating this electronic filing technology with SRTS should also enhance the Commission's ability to monitor and process SRO proposed rule changes.

Moreover, requiring SROs to post proposed rule changes filed under Rule 19b–7 on their Web sites no later than two business days after filing with the Commission should increase availability of SRO proposed rules and thereby facilitate the ability of interested parties to comment on proposed rule changes. For instance, the posting of these proposed rule changes would provide the public with access to the filings on the SROs' Web sites and thereby reduce the burden on SRO and Commission staff of providing information about proposed rule changes to interested parties. The Commission believes that the posting of the proposed rule changes submitted on Form 19b–7 would also save SRO resources that are currently being used to monitor the Commission's Public Reference Room for competitors' proposed rule changes.

B. Costs

As noted, the Commission staff estimates that the annual paperwork reporting costs would be 155 hours under the proposed rule. If the proposed changes were adopted, the Commission believes that SROs could incur some costs associated with training their personnel about the procedures for submitting proposed rule changes electronically and submission of the information via EAUF. However, the Commission believes that such costs would be one-time costs and insubstantial since the SROs are already familiar with the information required in filing a proposed rule change with the Commission and would only be required to submit the same information

[41] However, consistent with applicable law, proposed SRO rule changes containing proprietary or otherwise sensitive information may be kept confidential and nonpublic, including requests submitted pursuant to the protection afforded for such information in the Freedom of Information Act, 5 U.S.C. 552.

[42] As noted in the Paperwork Reduction Act analysis, the Commission staff based this total reporting burden of 159 hours for filing proposed rule changes and amendments + 8 hours for posting proposed rule changes and amendments on the SROs' Web sites.

electronically under this proposal. The Commission believes that the total amount of one-time costs that SROs would incur in training personnel how to use EAUF is 50 hours. The Commission staff believes that the SROs could also incur some minimal costs (currently $20 per year) associated with purchasing digital IDs for each duly authorized officer electronic signatories.[43] The Commission also believes that the SROs would have to make temporary adjustments to their recordkeeping procedures since, under the proposal, the SROs would be required to print out the Form 19b–7 signature block, manually sign proposed rule changes, and retain the manual signature for not less than five years. However, there should be no additional costs associated with such recordkeeping as SROs are currently required to retain the Form 19b–7 for not less than five years. The Commission requests comment on the anticipated costs, if any, on SROs to comply with the proposed requirement of retaining a manual signature of each proposed rule change submitted electronically.

Moreover, the Commission believes that the proposed requirement that SROs post proposed rule changes on their Web sites would impose some but not substantial costs on most SROs. The Commission notes that no new costs will be associated with posting a current and complete version of their rules on their Web site because currently all SROs promptly post this information on their Web sites pursuant to Rule 19b–4(m). In addition, the Commission does not anticipate that SROs would incur any material additional costs in complying with the change to Form 19b–4, which proposes to add the word ''officer'' to the Signature Box because the addition of the word simply provides transparency to an obligation that already exists.[44] Therefore, at all times, each SRO should maintain a current and complete set of its rules to facilitate compliance with this requirement. Accordingly, the Commission does not believe that SROs would incur substantial costs in simply posting this information on their Web sites because they should already be doing so.

C. Request for Comment

The Commission requests data to quantify the costs and the benefits above. The Commission seeks estimates of these costs and benefits, as well as any costs and benefits not already defined, which could result from the adoption of these proposed amendments to Rule 19b–7 and Form 19b–7. Specifically, the Commission requests commenters to address whether proposed amendments to Rule 19b–7 and Form 19b–7 that would require electronic filing of SRO proposed rule changes and the posting of these proposed rule changes on the SROs' Web sites would generate the anticipated benefits or impose any unanticipated costs on the SROs and the public.

VI. Consideration of the Burden on Competition, Promotion of Efficiency, and Capital Formation

Section 3(f) of the Act[45] requires the Commission, whenever it engages in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Act[46] requires the Commission, when promulgating rules under the Act, to consider the impact any such rules would have on competition. Section 23(a)(2) further provides that the Commission may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The proposed amendments to Rule 19b–7 and Form 19b–7 are intended to modernize the receipt and review of SRO proposed rule changes and to make the SRO rule filing process more efficient by conserving both SRO and Commission resources. They also are intended to improve the transparency of the SRO rule filing process and facilitate access to current and complete sets of SRO rules. In addition, none of these changes would have an adverse impact on competition or capital formation and they would therefore benefit investors.

The Commission generally requests comment on the competitive or anticompetitive effects of these amendments to Rule 19b–7 and Form 19b–7 on any market participants if adopted as proposed. The Commission also requests comment on what impact the amendments, if adopted, would have on efficiency and capital formation. Commenters should provide analysis and empirical data to support their views on the costs and benefits associated with the proposal.

VII. Regulatory Flexibility Act Certifications

The Regulatory Flexibility Act (''RFA'')[47] requires Federal agencies, in promulgating rules, to consider the impact of those rules on small entities. Section 603(a)[48] of the Administrative Procedure Act,[49] as amended by the RFA, generally requires the Commission to undertake a regulatory flexibility analysis of all proposed rules, or proposed rule amendments, to determine the impact of such rulemaking on ''small entities.''[50] Section 605(b) of the RFA specifically states that this requirement shall not apply to any proposed rule, or proposed rule amendment, which if adopted, would not ''have a significant economic impact on a substantial number of small entities.''

Proposed amendments to Rules 19b–7 and Form 19b–7 would require SROs to electronically file proposed rule changes submitted pursuant to Section 19(b)(7)(A) of the Act and require SROs to post all such proposed rule changes on their Web sites. Only exchanges registered with the Commission under Section 6(g) of the Act and national securities associations registered with the Commission under Section 15A(k) of the Act would be subject to the proposed amendments to Rule 19b–7 and Form 19b–7. None of the exchanges registered under Section 6(g) or national securities associations registered with the Commission under Section 15A(k) that would be subject to the proposed amendments are ''small entities'' for purposes of the Regulatory Flexibility Act.[51]

In addition, the proposal would make certain conforming changes to Rule

[43] The Commission staff estimates that each SRO will purchase five of their staff such digital IDs. Thus, the annual cost of the digital ID for all SROs would be $500 (5 SROs × $20 × 5).

[44] *See* Section F of the Instructions to Form 19b–4.

[45] 15 U.S.C. 78c(f).

[46] 15 U.S.C. 78w(a)(2).

[47] 5 U.S.C. 601 *et seq.*

[48] 5 U.S.C. 603(a).

[49] 5 U.S.C. 551 *et seq.*

[50] Although Section 601(b) of the RFA defines the term ''small entity,'' the statute permits agencies to formulate their own definitions. The Commission has adopted definitions for the term small entity for the purposes of Commission rulemaking in accordance with the RFA. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18451 (January 28, 1982), 47 FR 5215 (February 4, 1982).

[51] *See* 17 CFR 240.0–10(e). Paragraph (e) of Rule 0–10 states that the term ''small business,'' when referring to an exchange, means any exchange that has been exempted from the reporting requirements of Rule 601 of Regulation NMS, 17 CFR 242.601, and is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in Rule 0–10. Under this standard, none of the exchanges subject to the proposed amendments to Rule 19b-7 and Form 19b-7 is a ''small entity'' for the purposes of the RFA. In addition, the NFA is not a ''small entity'' for purposes of the RFA. See Securities Exchange Act Release No. 44279 (May 8, 2001), 66 FR 26978, 26990 (May 15, 2001) (S7–10–01) (Rule 19b-7 Proposing Release).

19b–4 and Form 19b–4. National securities exchanges and national securities associations that would be subject to the proposed amendments to Rule 19b–4 and Form 19b–4 are not ''small entities'' for the purposes of the RFA.[52]

For the above reasons, the Commission certifies that the proposed amendments to Rule 19b–4 and 19b–7 and Form 19b–4 and 19b–7, if adopted, would not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The Commission invites commenters to address whether the proposed rules would have a significant economic impact on a substantial number of small entities, and, if so, what would be the nature of any impact on small entities. The Commission requests that commenters provide empirical data to support the extent of such impact.

VIII. Statutory Basis and Text of Proposed Amendments

The amendments to Rule 19b–7 and Form 19b–7 under the Act are being proposed pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(b), 6, 15A, 19(b), and 23(a) of the Act.

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

2. Section 240.19b–4 is amended by revising paragraph (m) to read as follows:

§ 240.19b–4 Filings with respect to proposed rule changes by self-regulatory organizations.

* * * * *

(m) Each self-regulatory organization shall post and maintain a current and complete version of its rules on its Web site. The self-regulatory organization shall update its Web site to reflect rule changes filed pursuant to section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)) within two business days after it has been notified of the Commission's approval of a proposed rule change, and to reflect rule changes filed pursuant to section 19(b)(3)(A) of the Act (15 U.S.C. 78s(b)(3)(A)) within two days of the Commission's notice of such proposed rule change. If a rule change is not effective for a certain period, the self-regulatory organization shall clearly indicate the effective date in the relevant rule text.

* * * * *

3. Section 240.19b–7 is amended by:

a. Adding a preliminary note;

b. Revising paragraphs (a) and (b)(1); and

c. Adding paragraphs (d), (e), (f) and (g).

The additions and revisions read as follows:

§ 240.19b–7 Filings with respect to proposed rule changes submitted pursuant to Section 19(b)(7) of the Act.

Preliminary Note: A self-regulatory organization also must refer to Form 19b–7 (17 CFR 249.822) for further requirements with respect to the filing of proposed rule changes.

(a) Filings with respect to proposed rule changes by a self-regulatory organization submitted pursuant to section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)) shall be made electronically on Form 19b–7 (17 CFR 249.822).

(b) * * *

(1) A completed Form 19b–7 (17 CFR 249.822) is submitted electronically; and

* * * * *

(d) Filings with respect to proposed rule changes by a self-regulatory organization submitted on Form 19b–7 (17 CFR 249.822) electronically shall contain an electronic signature. For the purposes of this section, the term electronic signature means an electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letter or series of letters or characters comprising a name, executed, adopted or authorized as a signature. The signatory to an electronically submitted rule filing shall manually sign a signature page or other document, in the manner prescribed by Form 19b–7, authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing. Such document shall be executed before or at the time the rule filing is electronically submitted and shall be retained by the filer in accordance with 17 CFR 240.17a–1.

(e) If the conditions of this section and Form 19b–7 (17 CFR 249.822) are otherwise satisfied, all filings submitted electronically on or before 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, on a business day, shall be deemed filed on that business day, and all filings submitted after 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed on the next business day.

(f) The self-regulatory organization shall post the proposed rule change, and any amendments thereto, submitted on Form 19b–7 (17 CFR 249.822), on its Web site within two business days after the filing of the proposed rule change, and any amendments thereto, with the Commission. Unless the self-regulatory organization withdraws the proposed rule change or is notified that the proposed rule change is not properly filed, such proposed rule change and amendments shall be maintained on the self-regulatory organization's Web site until 60 days after:

(1) The filing of a written certification with the Commodity Futures Trading Commission under section 5c(c) of the Commodity Exchange Act (7 U.S.C. 7a–2(c));

(2) The Commodity Futures Trading Commission determines that review of the proposed rule change is not necessary; or

(3) The Commodity Futures Trading Commission approves the proposed rule change; and

(4) In the case of a proposed rule change, or any amendment thereto, that has been withdrawn or not properly filed, the self-regulatory organization shall remove the proposed rule change, or any amendment, from its Web site within two business days of notification of improper filing or withdrawal by the self-regulatory organization of the proposed rule change.

(g) Each self-regulatory organization shall post and maintain a current and complete version of its rules on its Web site. The self-regulatory organization shall update its Web site to reflect rule changes filed pursuant to section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)) within two business days after it takes effect upon filing of a written certification with the Commodity Futures Trading Commission under

[52] *See* 17 CFR 240.0–10(e). Under this standard, described *supra* in note 51, none of the exchanges affected by the proposed amendments to Rule 19b–4 and Form 19b–4 is a small entity for the purposes of the RFA. The Commission has also found that NASD is not a small entity.

section 5c(c) of the Commodity Exchange Act (7 U.S.C. 7a–2(c)), upon a determination by the Commodity Futures Trading Commission that review of the proposed rule change is not necessary, or upon approval by the Commodity Futures Trading Commission. If a rule change is not effective for a certain period, the self-regulatory organization shall clearly indicate the effective date in the relevant rule text.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

4. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq*. and 7201 *et seq*.; and 18 U.S.C. 1350, unless otherwise noted.

5. Section 249.822 is revised to read as follows:

§ 249.822 Form 19b–7, for electronic filing with respect to proposed rule changes by self-regulatory organizations under Section 19(b)(7)(A) of the Securities Exchange Act of 1934.

This form shall be used by self-regulatory organizations, as defined in section 3(a)(25) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(25)), to file electronically proposed rule changes with the Commission pursuant to section 19(b)(7) of the Act (15 U.S.C. 78s(b)(7)) and § 240.19b–7 of this chapter.

6. Form 19b–7 (referenced in § 249.822) is revised to read as follows:

[**Note:** Form 19b–7 is attached as Appendix A to this document.]

[**Note:** The text of Form 19b–7 will not appear in the Code of Federal Regulations.]

Dated: February 23, 2007.

By the Commission.

Nancy M. Morris,

Secretary.

Appendix A—General Instructions for Form 19b–7

A. Use of the Form

All self-regulatory organization proposed rule changes submitted pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''), shall be filed electronically through the Electronic Form Filing System (''EFFS''), a secure Web site operated by the Commission. This form shall be used for filings of proposed rule changes by all self-regulatory organizations pursuant to Section 19(b)(7) of the Act. National securities exchanges registered pursuant to Section 6(g) of the Act and limited purpose national securities associations registered pursuant to Section 15A(k) of the Act are self-regulatory organizations for purposes of this form.

B. Need for Careful Preparation of the Completed Form, Including Exhibits

This form, including the exhibits, is intended to elicit information necessary for the public to provide meaningful comment on the proposed rule change and for the Commission to determine whether abrogation of the proposal is appropriate because it unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors. The self-regulatory organization must provide all the information called for by the form, including the exhibits, and must present the information in a clear and comprehensible manner.

The proposed rule change shall be considered filed with the Commission on the date on which the Commission receives the proposed rule change if the filing complies with all requirements of this form. Any filing that does not comply with the requirements of this form may be returned to the self-regulatory organization at any time before the issuance of the notice of filing. Any filing so returned shall for all purposes be deemed not to have been filed with the Commission. See also Rule 0–3 under the Act (17 CFR 240.0–3).

C. Documents Comprising the Completed Form

The completed form filed with the Commission shall consist of the Form 19b–7 Page 1, numbers and captions for all items, responses to all items, and exhibits required in Instruction H. In responding to an item, the completed form may omit the text of the item as contained herein if the response is prepared to indicate to the reader the coverage of the item without the reader having to refer to the text of the item or its instructions. Each filing shall be marked on the Form 19b–7 with the initials of the self-regulatory organization, the four-digit year, and the number of the filing for the year (*i.e.*, SRO–YYYY–XX). If the self-regulatory organization is filing Exhibit 2 or 3 via paper, the exhibits must be filed within 5 business days of the electronic submission of all other required documents.

D. Amendments

If information on this form is or becomes inaccurate before the proposed rule change becomes effective, the self-regulatory organization shall file amendments correcting any such inaccuracy. Amendments shall be filed as specified in Instruction E.

Amendments to a filing shall include the Form 19b–7 Page 1 marked to number consecutively the amendments, numbers and captions for each amended item, amended response to the item, and required exhibits. The amended description in Section II. A. 1. of Exhibit 1 shall explain the purpose of the amendment and, if the amendment changes the purpose of or basis for the proposed rule change, the amended response shall also provide a revised purpose and basis statement for the proposed rule change. Exhibit 1 shall be re-filed if there is a material change from the immediately preceding filing in the language of the proposed rule change or in the information provided.

If the amendment alters the text of an existing rule, the amendment shall include the text of the existing rule, marked in the manner described in Section I. of Exhibit 1 using brackets to indicate words to be deleted from the existing rule and underscoring to indicate words to be added. The purpose of this marking requirement is to maintain a current copy of how the text of the existing rule is being changed.

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (*i.e.*, partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

If, after the rule change is filed but before it becomes effective, the self-regulatory organization receives or prepares any correspondence or other communications reduced to writing (including comment letters) to and from such self-regulatory organization concerning the proposed rule change, the communications shall be filed as Exhibit 2. If information in the communication makes the rule change filing inaccurate, the filing shall be amended to correct the inaccuracy. If such communications cannot be filed electronically in accordance with Instruction E, the communications shall be filed in accordance with Instruction F.

E. Signature and Filing of the Completed Form

All proposed rule changes, amendments, extensions, and withdrawals of proposed rule changes shall be filed through the EFFS. In order to file Form 19b–7 through EFFS, self-regulatory organizations must request access to the SEC's External Application Server by completing a request for an external account user ID and password for the use of the External Application User Authentication Form.

Initial requests will be received by contacting the Market Regulation Administrator located on our Web site (*http://www.sec.gov*). An e-mail will be sent to the requestor that will provide a link to a secure Web site where basic profile information will be requested.

A duly authorized officer of the self-regulatory organization shall electronically sign the completed Form 19b–7 as indicated on Page 1 of the Form. In addition, a duly authorized officer of the self-regulatory organization shall manually sign one copy of the completed Form 19b–7, and the manually signed signature page shall be maintained pursuant to Section 17 of the Act.

F. Procedures for Submission of Paper Documents for Exhibits 2 and 3

To the extent that Exhibit 2 or 3 cannot be filed electronically in accordance with Instruction E, four copies of Exhibit 2 or 3 shall be filed with the Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628. Page 1 of the electronic Form 19b–7 shall accompany paper

submissions of Exhibit 2 or 3. If the self-regulatory organization is filing Exhibit 2 or 3 via paper, they must be filed within five days of the electronic filing of all other required documents.

G. Withdrawals of Proposed Rule Changes

If a self-regulatory organization determines to withdraw a proposed rule change, it must complete Page 1 of the Form 19b–7 and indicate by selecting the appropriate check box to withdraw the filing.

H. Exhibits

List of exhibits to be filed, as specified in Instructions C and D:

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the **Federal Register**. It is the responsibility of the self-regulatory organization to prepare Items I, II and III of the notice. Leave a 1-inch margin at the top, bottom, and right hand side, and a 1½ inch margin at the left hand side. Number all pages consecutively. Double space all primary text and single space lists of items, quoted material when set apart from primary text, footnotes, and notes to tables. Amendments to Exhibit 1 should be filed in accordance with Instructions D and E.

Exhibit 2. (a) Copies of notices issued by the self-regulatory organization soliciting comment on the proposed rule change and copies of all written comments on the proposed rule change received by the self-regulatory organization (whether or not comments were solicited), presented in alphabetical order, together with an alphabetical listing of such comments. If such notices and comments cannot be filed electronically in accordance with Instruction E, the notices and comments shall be filed in accordance with Instruction F.

(b) Copies of any transcript of comments on the proposed rule change made at any public meeting or, if a transcript is not available, a copy of the summary of comments on the proposed rule change made at such meeting. If such transcript of comments or summary of comments cannot be filed electronically in accordance with Instruction E, the transcript of comments or summary of comments shall be filed in accordance with Instruction F.

(c) Any correspondence or other communications reduced to writing (including comment letters and e-mails) concerning the proposed rule change prepared or received by the self-regulatory organization. All correspondence or other communications should be presented in alphabetical order together with an alphabetical listing of the authors, and shall be filed in accordance with Instruction E. If such communications cannot be filed electronically in accordance with Instruction E, the communications shall be filed in accordance with Instruction F.

(d) If after the proposed rule change is filed but before it becomes effective, the self-regulatory organization prepares or receives any correspondence or other communications reduced to writing (including comment letters and e-mails) to and from such self-regulatory organization concerning the proposed rule change, the communications shall be filed in accordance with Instruction E. All correspondence or other communications should be presented in alphabetical order together with an alphabetical listing of the authors. If such communications cannot be filed electronically in accordance with Instruction E, the communications shall be filed in accordance with Instruction F.

Exhibit 3. If any form, report, or questionnaire is

(a) Proposed to be used in connection with the implementation or operation of the proposed rule change, or

(b) Prescribed or referred to in the proposed rule change, then the form, report, or questionnaire must be attached and shall be considered as part of the proposed rule change. If completion of the form, report or questionnaire is voluntary or is required pursuant to an existing rule of the self-regulatory organization, then the form, report, or questionnaire, together with a statement identifying any existing rule that requires completion of the form, report, or questionnaire, shall be attached as Exhibit 3. If the form, report, or questionnaire cannot be filed electronically in accordance with Instruction E, the documents shall be filed in accordance with Instruction F.

Exhibit 4. The self-regulatory organization must attach as Exhibit 4 proposed changes to its rule text. Changes in, additions to, or deletions from, any existing rule shall be set forth with brackets used to indicate words to be deleted and underscoring used to indicate words to be added. Exhibit 4 shall be considered part of the proposed rule change.

Exhibit 5. The self-regulatory organization must attach one of the following:

Certificate of Effectiveness of Proposed Rule Change: Attach a copy of the certification submitted to the CFTC pursuant to Section 5c(c) of the Commodity Exchange Act.

CFTC Request or Determination that Review of the Proposed Rule Change is Not Necessary: Attach a copy of any request submitted to the CFTC for determination that review of the proposed rule change is not necessary and any indication from the CFTC that it has determined that review of the proposed rule change is not necessary.

Request for CFTC Approval of Proposed Rule Change: Attach a copy of any request submitted to the CFTC for approval of the proposed rule change and any indication received from the CFTC that the proposed rule change has been approved.

BILLING CODE 8010–01–P

OMB APPROVAL
OMB Number: 3235-0553 Expires: October 31, 2007 Estimated average burden hours per response.....15.5

Page 1 of ____

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-7

File No. SR - 2006 - ____
Amendment No. ____

Proposed Rule Change by sroName

Pursuant to Rule 19b-7 under the Securities Exchange Act of 1934

Initial ☐ Amendment ☐ Withdrawal ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name ____ Last Name ____
Title ____
E-mail ____
Telephone ____ Fax ____

SRO Governing Body Action

Describe action on the proposed rule change taken by the members or board of directors or other governing body of the SRO (limit 250 characters).

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 02/23/2007
By ____
(Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Digitally Sign and Lock Form

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-7 instructions please refer to the EFFS website.

Exhibit 1- Notice of Proposed Rule Change

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal.

The Notice section of this Form 19b-7 must comply with the guidelines for publication in the Federal Register, as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC and CFTC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases and Commodities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document ☐

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction E, they shall be filed in accordance with Instruction F.

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document ☐

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change. If such documents cannot be filed electronically in accordance with Instruction E, they shall be filed in accordance with Instruction F.

Exhibit 4 - Proposed Rule Text

Add Remove View

The self-regulatory organization must attach as Exhibit 4 proposed changes to rule text. Exhibit 4 shall be considered part of the proposed rule change.

Exhibit 5 - Date of Effectiveness of Proposed Rule Change

The self-regulatory ogranization must attach one of the following:

CFTC Certification ☒

CFTC Request or Determination that Review of Proposed Rule Change Is Not Necessary ☐

Request for CFTC Approval of Proposed Rule Change ☐

CFTC Certification: Attach a copy of the certification submitted to the CFTC pursuant to section 5c(c) of the Commodity Exchange Act.

Add Remove View

Exhibit Sent As Paper Document ☐

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission staff's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

BILLING CODE 8010–01–C

Information To Be Included in the Completed Exhibit 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34– File No. SR–[SRO Name]–[YYYY]–[XX])

Self-Regulatory Organizations; Proposed Rule Change by [Name of Self-Regulatory Organization] Relating to [brief description of the subject matter of the proposed rule change].

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[53] notice is hereby given that on [date [54]], the [name of self-regulatory organization] filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. [Name of self-regulatory organization] also has filed this proposed rule change concurrently with the Commodity Futures Trading Commission (''CFTC''). [Section 19(b)(7)(B) provides that a proposed rule change may take effect upon the occurrence of one of three events. The self-regulatory organization should include one of the following sentences, whichever is applicable:]

The [name of self-regulatory organization] filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act on [date]; or

The [name of self-regulatory organization] on [date], has requested that the CFTC make a determination that review of the proposed rule change of the [self-regulatory organization] is not necessary. The CFTC has [made such determination on [date]]; or [has not made such determination]; or

The [name of self-regulatory organization] on [date] submitted the proposed rule change to the CFTC for approval. The CFTC [approved the proposed rule change on [date]]; or [has not approved the proposed rule change].

I. Self-Regulatory Organization's Description and Text of the Proposed Rule Change

[Supply a brief statement of the terms of substance of the proposed rule change.

If the proposed rule change is relatively brief, a separate statement need not be prepared, and the text of the proposed rule change may be inserted in lieu of the statement of the terms of substance. If the proposed rule change amends an existing rule, indicate the changes in the rule by brackets for words to be deleted and underscoring for words to be added.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. Purpose

[Provide a statement of the purpose of the proposed rule change. The statement must describe the text of the proposed rule change in a sufficiently detailed and specific manner as to enable the public to provide meaningful comment on the proposal. At a minimum, the statement should:

(a) [Describe the reasons for adopting the proposed rule change, any problems the proposed rule change is intended to address, the manner in which the proposed rule change will resolve those problems, the manner in which the proposed rule change will affect various persons (*e.g.* brokers, dealers, issuers, and investors), and any significant problems known to the self-regulatory organization that persons affected are likely to have in complying with the proposed rule change; and]

(b) [Describe how the proposed rule change relates to existing rules of the self-regulatory organization. If the self-regulatory organization reasonably expects that the proposed rule change will have any direct effect, or significant indirect effect, on the application of any other rule of the self-regulatory organization, set forth the designation or title of any such rule and describe the anticipated effect of the proposed rule change on the application of such other rule. Include the file numbers for prior filings with respect to any existing rule specified.]

2. Statutory Basis

[Explain why the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the self-regulatory organization. A mere assertion that the proposed rule change is consistent with those requirements is not sufficient. Certain limitations that the Act imposes on self-regulatory organizations are summarized in the notes that follow.

Note 1. *National Securities Exchanges.* Under Section 6 of the Act, rules of a national securities exchange may not permit unfair discrimination between customers, issuers, brokers, or dealers, and may not regulate, by virtue of any authority conferred by the Act, matters not related to the purposes of the Act or the administration of the self-regulatory organization.

Note 2. *Limited Purpose National Securities Associations.* Under Section 15A(k) of the Act, rules of a national securities association registered for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest, including rules governing sales practices and the advertising of security futures products reasonably comparable to those of other national securities associations registered pursuant to Section 15A(a) that are applicable to security futures products. The rules may not be designed to regulate, by virtue of any authority conferred by the Act, matters not related to the purposes of the Act or the administration of the association.]

B. Self-Regulatory Organization's Statement on Burden on Competition

[The information required by this section must be sufficiently detailed and specific to support the premise that the proposed rule change does not unduly burden competition. In responding to this section, the self-regulatory organization must:

• State whether the proposed rule change will have an impact on competition and, if so

(i) State whether the proposed rule change will impose any burden on competition or whether it will relieve any burden on, or otherwise promote, competition, and

(ii) Specify the particular categories of persons and kinds of businesses on which any burden will be imposed and the ways in which the proposed rule change will affect them.

• Explain why any burden on competition is not undue; or, if the self-

[53] 15 U.S.C. 78s(b)(7).

[54] To be completed by the Commission. This date will be the date on which the Commission receives the proposed rule change filing if the filing complies with all requirements of this form. *See* General Instructions for Form 19b–7.

regulatory organization does not believe that the burden on competition is significant, explain why.

In providing those explanations, set forth and respond in detail to written comments as to any significant impact or burden on competition perceived by any person who has made comments on the proposed rule change to the self-regulatory organization.]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

[If written comments were received (whether or not comments were solicited) from members of or participants in the self-regulatory organization or others, summarize the substance of all such comments received and respond in detail to any significant issues that those comments raised about the proposed rule change.

If an issue is summarized and responded to in detail under Section II.A.1. or Section II.B. of this Form 19b–7 Notice, that response need not be duplicated if appropriate cross-reference is made to the place where the response can be found. If comments were not or are not to be solicited, so state.]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

[The self-regulatory organization shall include the following with the applicable phrase on the proposed rule change's effectiveness:]

The proposed rule change has become effective on [insert date of filing of written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act; or the date of determination by the CFTC that review of the proposed rule change is not necessary; or the date of approval of the proposed rule change by the CFTC]. [or]

The proposed rule change is not effective because the CFTC [has not determined that review of the proposed rule changes is not necessary or has not approved the proposed rule change].

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) 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–[SRO]–[YYYY]–[XX] 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–[SRO]–[YYYY]–[XX]. 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 [SRO]. 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 publicly available. All submissions should refer to File Number SR–[SRO]–[YYYY]–[XX] and should be submitted on or before March 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[55]

Secretary.

Appendix B

[55] 17 CFR 200.30–3(a)(73).

OMB APPROVAL	
OMB Number:	3235-0045
Expires:	June 30, 2007
Estimated average burden hours per response	38

Page 1 of ☐

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - ☐ - ☐
Amendment No. ☐

Proposed Rule Change by: Select SRO

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial	Amendment	Withdrawal	Section 19(b)(2)	Section 19(b)(3)(A)	Section 19(b)(3)(B)
☐	☐	☐	☐	☐	☐

Pilot ☐

Extension of Time Period for Commission Action ☐

Date Expires ☐

Rule

- ☐ 19b-4(f)(1)
- ☐ 19b-4(f)(2)
- ☐ 19b-4(f)(3)
- ☐ 19b-4(f)(4)
- ☐ 19b-4(f)(5)
- ☐ 19b-4(f)(6)

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name ☐ Last Name ☐

Title ☐

E-mail ☐

Telephone ☐ Fax ☐

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 02/23/2007

By ☐

(Name)

☐

(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications Add Remove View Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.
Exhibit 4 - Marked Copies Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

[FR Doc. 07–917 Filed 2–28–07; 8:45 am]
BILLING CODE 8010–01–C

Federal Register

Thursday,
March 1, 2007

Part III

The President

Proclamation 8107—Irish-American Heritage Month, 2007

Federal Register
Vol. 72, No. 40
Thursday, March 1, 2007

Presidential Documents

Title 3—

The President

Proclamation 8107 of February 26, 2007

Irish-American Heritage Month, 2007

By the President of the United States of America

A Proclamation

The friendship between Ireland and the United States has deep roots, and Irish Americans have played an integral role in making our country a place of hope and opportunity. During Irish-American Heritage Month, we recognize the vital contributions of Irish Americans to our Nation.

Since our founding, Irish immigrants have come to America's shores in search of better lives. Today, millions of American citizens are of Irish descent, and they and their forbearers have helped shape our way of life, strengthened our economy, and contributed to the arts, and protected our Nation. Irish Americans have shown their devotion to our country by serving in our Armed Forces. America is especially grateful to these brave men and women for the sacrifices that have helped preserve the ideals of our country and made the world a safer place.

During the month of March, we reflect on our Nation's past and how Irish Americans helped create the country we live in today. America is a melting pot of cultures, and Irish-American Heritage Month is an opportunity to celebrate the accomplishments of Irish-American citizens and remind our people we are blessed to be a Nation of immigrants.

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 March 2007 as Irish-American Heritage Month. I call upon all Americans to observe this month by celebrating the contributions of Irish Americans to our Nation.

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

[FR Doc. 07–984
Filed 2–28–07; 9:35 am]
Billing code 3195–01–P

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Federal Register

Vol. 72, No. 40

Thursday, March 1, 2007

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FEDERAL REGISTER PAGES AND DATE, MARCH

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 1, 2007

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic mackerel, squid, and butterfish; published 1-30-07
Atlantic mackerel, squid, and butterfish; published 2-27-07
Atlantic mackerel, squid, and butterfish; correction; published 2-7-07

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
North Dakota; published 3-1-07
Virginia; published 1-30-07

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
Maropitant citrate tablets, etc.; published 3-1-07
Monensin; published 3-1-07
Trenbolone and estradiol; implantation or injectable; published 3-1-07
Zilpaterol; published 3-1-07

HEALTH AND HUMAN SERVICES DEPARTMENT
Grants and agreements:
Nonprocurement debarment and suspension; OMB guidance; implementation; published 3-1-07

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Alabama beach mouse; published 1-30-07

PENSION BENEFIT GUARANTY CORPORATION
Single-employer plans:
Allocation of assets—
Benefits payable in terminated plans; interest assumptions for valuing and paying benefits; published 2-15-07

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airmen certification:
Airmen other than flight crew-members; inspection authorization; 2-year renewal; published 1-30-07
Airworthiness directives:
Boeing; published 1-25-07
Bombardier; published 1-25-07
DORNIER LUFTFAHRT GmbH; published 1-25-07
Empresa Brasileira de Aeronautica S.A. (EMBRAER); published 1-25-07
Saab; published 1-25-07

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Corporate reorganizations and distributions; published 3-1-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Exportation and importation of animals and animal products:
Rinderpest and foot-and-mouth disease; disease status change—
Argentina; comments due by 3-6-07; published 1-5-07 [FR E6-22627]
Uncooked pork and pork products; comments due by 3-6-07; published 1-5-07 [FR E6-22629]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Endangered and threatened species:
Marine and andromous species—
Puget Sound steelhead; comments due by 3-9-07; published 2-7-07 [FR E7-02010]
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pollock; comments due by 3-7-07; published 2-23-07 [FR 07-00827]
International fisheries regulations:
Pacific albacore tuna—
U.S. vessels eligible to fish in Canadian waters; annual listing; comments due by 3-9-07; published 2-7-07 [FR E7-02045]

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
General provisions; comments due by 3-5-07; published 1-3-07 [FR E6-22283]
Air quality implementation plans; approval and promulgation; various States:
Alaska; comments due by 3-7-07; published 2-5-07 [FR E7-01802]
South Dakota; comments due by 3-5-07; published 2-1-07 [FR E7-01621]
Utah; comments due by 3-5-07; published 2-1-07 [FR E7-01619]
Grants; State and local assistance:
Clean Water Act Section 106 grants; permit fee incentive; allotment formula; comments due by 3-5-07; published 1-4-07 [FR E6-22549]

FEDERAL COMMUNICATIONS COMMISSION
Radio services, special:
Aviation services—
Aviation communications; frequency allocation and radio treaty matters; amendments; comments due by 3-6-07; published 12-6-06 [FR E6-20451]

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Food labeling—
Conventional foods being marketed as functional foods; hearing; comments due by 3-5-07; published 10-25-06 [FR 06-08895]
Conventional foods being marketed as functional foods; hearing; comments due by 3-5-07; published 1-8-07 [FR E7-00047]
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Etiologic agents; interstate shipment; comments due by 3-5-07; published 1-3-07 [FR E6-21723]

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Small cities program; comments due by 3-5-07; published 1-3-07 [FR E6-22502]
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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*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 742 / Public Law 110–6

Antitrust Modernization Commission Extension Act of 2007 (Feb. 26, 2007; 121 Stat. 61; 1 page)

Last List February 20, 2007

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 2007

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
March 1	March 16	April 2	April 16	April 30	May 30
March 2	March 19	April 2	April 16	May 1	May 31
March 5	March 20	April 4	April 19	May 4	June 4
March 6	March 21	April 5	April 20	May 7	June 4
March 7	March 22	April 6	April 23	May 7	June 5
March 8	March 23	April 9	April 23	May 7	June 6
March 9	March 26	April 9	April 23	May 8	June 7
March 12	March 27	April 11	April 26	May 11	June 11
March 13	March 28	April 12	April 27	May 14	June 11
March 14	March 29	April 13	April 30	May 14	June 12
March 15	March 30	April 16	April 30	May 14	June 13
March 16	April 2	April 16	April 30	May 15	June 14
March 19	April 3	April 18	May 3	May 18	June 18
March 20	April 4	April 19	May 4	May 21	June 18
March 21	April 5	April 20	May 7	May 21	June 19
March 22	April 6	April 23	May 7	May 21	June 20
March 23	April 9	April 23	May 7	May 22	June 21
March 26	April 10	April 25	May 10	May 25	June 25
March 27	April 11	April 26	May 11	May 29	June 25
March 28	April 12	April 27	May 14	May 29	June 26
March 29	April 13	April 30	May 14	May 29	June 27
March 30	April 16	April 30	May 14	May 29	June 28