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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. AMS–FV–07–0030; FV07–916/917–4 IFR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule eliminates grade, size, maturity, pack, container and inspection requirements for all California nectarines and peaches except those packed in containers labeled ''California Well Matured'' or ''CA WELL MAT''. This rule also makes seasonal adjustments to the handling requirements applicable to well matured fruit. Finally, this rule removes certain handler reporting requirements that are deemed no longer necessary. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule should reduce handler costs while enabling handlers to continue to meet the demands of their buyers.

DATES: Effective April 17, 2007. Comments received by June 15, 2007 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or Internet: *http://www.regulations.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection at the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Jennifer Garcia, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906; or E-mail: *Jennifer.Garcia3@usda.gov* or *Kurt.Kimmel@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos. 916 and 917, both as amended (7 CFR parts 916 and 917), regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule: (1) Eliminates grade, size, maturity, pack, container and inspection requirements for all California nectarines and peaches except those packed in containers labeled ''California Well Matured'' or ''CA WELL MAT''; (2) Makes seasonal adjustments to the handling requirements applicable to California Well Matured fruit; and (3) Removes certain handler reporting requirements that are deemed no longer necessary.

These changes are intended to allow industry handlers to reduce costs and provide them greater flexibility in meeting buyer preferences. Also, adjustments are made in light of the newly implemented California State marketing program.

Sections 916.52 and 917.41 of the orders provide authority for handling regulations for fresh California nectarines and peaches. The regulations may include grade, size, maturity, quality, pack, and container requirements. The orders also provide that whenever such requirements are in effect, the fruit subject to such regulation must be inspected by the Federal or Federal-State Inspection Service (Inspection Service) and certified as meeting the applicable requirements.

The nectarine order has been in effect since 1939, and the peach program has been in effect since 1958. The orders have been used over the years to establish a quality control program that includes minimum grades, sizes, and maturity standards. That program has helped improve the quality of product moving from the farm to market, and has helped growers and handlers more effectively market their crops. Additionally, the orders have been used to ensure that only satisfactory quality nectarines and peaches reach the consumer. This has helped increase and maintain market demand over the years.

Sections 916.53 and 917.42 authorize the modification, suspension, or

termination of regulations issued under 916.52 and 917.41, respectively. Changes in regulations have been implemented to reflect changes in industry operating practices and to solve marketing problems as they arise. The committees, which are responsible for local administration of the orders, meet whenever needed, but at least annually, to discuss the orders and the various regulations in effect and to determine if, or what, changes may be necessary to reflect industry needs. As a result, regulatory changes have been made numerous times over the years to address industry changes and to improve program operations.

The industry has struggled to reduce costs in recent years. In its efforts to reduce costs, the industry considered adopting audit-based inspection programs in lieu of traditional inspection programs. Ultimately these programs would not provide sufficient savings to the industry. More recently, the industry considered replacing the existing Federal marketing orders with programs under the State of California that would not require Federal or Federal-State inspection of nectarines and peaches. In 2006, at the request of the industry, the California Department of Food and Agriculture promulgated a State program authorizing voluntary inspections for the nectarine and peach industry.

Beginning with the 2007 season, under the State program, all fruit must meet at least a modified U.S. No 1 grade and be ''mature'' as defined in the United States Standards for Grades of Nectarines (7 CFR 51.3145 through 51.3160) and United States Standards for Grades of Peaches (7 CFR 51.1210 through 51.1223) (hereinafter referred to as the ''Standards''). Inspection costs under the program are expected to be minimal, because inspection would not be mandatory. The industry has also shifted its data collection and promotional activities over to the State program.

The industry subsequently discussed removing all handling regulations under the Federal orders. This would have also resulted in the elimination of all inspection requirements and expenses under the Federal orders. However, the industry believes that buyers value the committees' ''CA WELL MAT'' mark as an indicator of high quality and may be willing to pay a premium price for fruit marked as such. The ''CA WELL MAT'' certification mark is owned by the California Tree Fruit Agreement, the management organization of the Peach Commodity Committee (PCC), which also manages the Nectarine Administrative Committee (NAC). Accordingly, the committees decided to maintain all Federal marketing order handling requirements, including inspection and certification requirements, for ''California well matured'' fruit. The committees, thus, recommended revising the handling regulations to cover only nectarines and peaches packed in containers marked ''CA WELL MAT'' or ''California Well Matured'.

The term ''well matured'' is defined in the orders'' rules and regulations, and has been used for many years by the industry to describe a level of maturity higher than the definition of ''mature'' in the Standards. The Inspection Service has been providing certification that these products meet the definition. Containers of nectarines and peaches bearing the certification mark must meet all of the requirements entailed in the definition of ''well matured.'' Thus, nectarines and peaches must continue to meet the grade and size requirements set forth in the orders' rules and regulations.

The committees met on February 9, 2007, and unanimously recommended that the handling requirements be revised for the 2007 season, which is expected to begin in April. No official crop estimate was available at the time of the committees' meetings because the nectarine and peach trees were dormant. The committees will recommend a crop estimate at their meetings in early spring. However, based on sufficient chill hours and a strong bloom, preliminary estimates indicate that the 2007 crop will be slightly larger than the 2006 crop, which totaled approximately 17,078,801 containers of nectarines and 19,231,534 containers of peaches.

Container and Pack Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of pack and container requirements for nectarines and peaches, respectively. Such requirements appear in §§ 916.115, 916.350, 917.150 and 917.442 of the orders' rules and regulations.

Currently, §§ 916.115 and 917.150 require that all containers of nectarines and peaches, respectively, be stamped with an Inspection Service lot number showing that such fruit has been inspected. Since only nectarines and peaches marked ''CA WELL MAT'' or ''California Well Matured'' will be subject to inspection requirements beginning in the 2007 season, §§ 916.115 and 917.150 are revised to specify that lot stamping is only required on containers so marked.

This rule also revises paragraph (a)(3) of §§ 916.350 and 917.442 to remove references to ''U.S. Mature'' and ''US Mat'' container markings. These references are no longer needed since only fruit packed in containers marked ''CA WELL MAT'' or ''California Well Matured'' will be subject to handling regulations under the orders this season.

Sections 916.350 and 917.442 also establish weight-count standards for packed containers of nectarines and peaches, respectively. These regulations define a maximum number of nectarines or peaches in a sample when such fruit, which may be packed in tray-packed containers, is converted to volume-filled containers. The regulations also specify how the containers must be marked. In paragraph (a)(8) of § 916.350 and (a)(9) of § 917.442, weight marking requirements are established for nectarines and peaches packed in volume-filled Euro style containers.

According to the committees, some retailers have requested handlers to supply volume-filled Euro containers with a net weight that is equal to the weight of tray-packed Euro containers. By eliminating the net weight requirement for volume-filled Euro containers, handlers are allowed to increase or decrease the amount of fruit in the container to match the net weight of fruit in a tray-packed Euro container, thus giving them more flexibility when marketing their fruit.

Grade and Quality Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Currently, nectarines and peaches are subject to a modified U.S. No. 1 grade requirement. Handlers are also able to pack to a ''CA Utility'' quality standards, subject to container labeling requirements. The committees recommended continued use of these grade and quality requirements.

However, they recommended that these requirements only be applied to nectarines and peaches packed in containers marked ''CA WELL MAT'' or ''California Well Matured''. This rule revises paragraph (a) of §§ 916.356 and 917.459 to specify such requirements only for containers of nectarines and peaches marked ''CA WELL MAT'' or ''California Well Matured'' during the 2007 and subsequent seasons.

These changes will allow industry handlers to reduce inspection costs by removing inspection and certification requirements on containers not marked ''CA WELL MAT'' and provide them greater flexibility in meeting buyer preferences.

This rule also revises paragraph (a)(1) of § 916.356 to add an additional

tolerance for Peento-type nectarines. Peento-type nectarines, also known as donut® nectarines due to their flattened shape, are prone to growth cracks, which emanate from the blossom end of the fruit. The committees believe that this is a minor defect that does not affect the edibility of the fruit. Thus, this action will make more Peento-type nectarines available to consumers without materially impacting the overall quality of the fruit.

Maturity Requirements

Sections 916.52 and 917.41 of the orders also authorize the establishment of maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is ''mature'' as defined in the Standards. The regulations also define a higher level of maturity (''well-matured'') that can be used at the option of handlers.

For most varieties, ''well-matured'' determinations for nectarines and peaches are made using maturity guides (e.g., color chips,) along with other maturity tests as may be applied by the Inspection Service. These maturity guides are reviewed each year by the Inspection Service to determine whether they need to be changed, based upon the most-recent information available on the individual characteristics of each nectarine and peach variety.

These maturity guides appear in Table 1 in paragraphs (a)(1)(iv) of §§ 916.356 and 917.459, for nectarines and peaches, respectively. Seasonal adjustments being made to the maturity guide are described below.

Nectarines: Requirements for ''well-matured'' nectarines are specified in § 916.356 of the order's rules and regulations. This rule revises Table 1 of paragraph (a)(1)(iv) of § 916.356 to add maturity guides for four varieties of nectarines. Specifically, the Inspection Service recommended adding maturity guides for the Larry's Red, September Bright, and WF 1 varieties to be regulated at the J maturity guide, and for the Prima Diamond VII variety to be regulated at the L maturity guide.

Peaches: Requirements for ''well-matured'' peaches are specified in § 917.459 of the order's rules and regulations. This rule revises Table 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for 11 peach varieties. Specifically, the Inspection Service recommended adding maturity guides for the Super Chief and Sweet Crest varieties to be regulated at the H maturity guide; the Junelicious variety to be regulated at the I maturity guide; the Burpeachfourteen (Spring Flame® 20), Henry III, Sharise, Sierra Rich, Sweet Blaze and Sweet Kay varieties to be regulated at the J maturity guide; and the Bright Princess and Summer Fling varieties to be regulated at the L maturity guide.

The committees recommended these maturity guide requirements based on the Inspection Service's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine and peach varieties in production.

Size Requirements

Both orders provide authority (in §§ 916.52 and 917.41) to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer, which improves both size and maturity of the fruit. Acceptable fruit size provides greater consumer satisfaction and promotes repeat purchases, thereby increasing returns to producers and handlers. In addition, increased fruit size results in increased numbers of packed containers of nectarines and peaches per acre, which is also a benefit to producers and handlers.

Several years ago the committees recommended revisions to allow handlers of late season nectarine and peach varieties to pack smaller sized fruit as long as the fruit was ''well matured''. This rule revises the size regulations in paragraphs (a)(6)(i), (a)(6)(ii), (a)(9)(i), and (a)(9)(ii) of § 916.356 and paragraphs (a)(6)(i) and (a)(6)(ii) to remove size options since only containers marked ''CA WELL MAT'' or ''California Well Matured'' will be subject to the size regulations under the orders.

Varieties recommended for specific size regulations have been reviewed and such recommendations are based on the specific characteristics of each variety. The committees conduct studies each season on the range of sizes attained by the regulated varieties and those varieties with the potential to become regulated, and determine whether revisions to the size requirements are appropriate.

Nectarines: Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule revises paragraphs (a)(3), (a)(4), and (a)(6) of § 916.356 to establish variety-specific minimum size requirements for fourteen varieties of nectarines that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2006 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Burnectfive (Spring Flare® 21) variety of nectarines, recommended for regulation at a minimum size 96. Studies of the size ranges attained by the Burnectfive (Spring Flare® 21) variety revealed that 100 percent of the containers met the minimum size of 96 during the 2005 and 2006 seasons. Sizes ranged from size 50 to size 96, with 5.8 percent of the fruit in the 50 sizes, 15.7 percent of the packages in the 60 sizes, 28.6 percent in the 70 sizes, 34.1 percent in the 80 sizes, and 16.8 percent in the 90 sizes.

A review of other varieties with the same harvesting period indicated that the Burnectfive (Spring Flare® 21) variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the Burnectfive (Spring Flare® 21) variety in the variety-specific minimum size regulation at a minimum size 96 is appropriate. This recommendation results from size studies conducted over a two-year period.

Historical data such as this provides the committee with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both NAC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, paragraph(a)(3) of § 916.356 is revised to include the Burnectfive (Spring Flare® 21) variety; paragraph (a)(4) of § 916.356 is revised to include the Burnecttwelve (Sweet Flare® 21), Early Pearl, and Rose Bright varieties; and paragraph (a)(6) of § 916.356 is revised to include the August Bright, Burnectseventeen (Summer Flare® 32), Candy Pearl, Grand Candy, Honey Diva, Larry s Red, Prima Diamond VII, Spring Pearl , Sugarine, and Zephyr nectarine varieties.

Peaches: Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule revises paragraphs (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of § 917.459 to

establish variety-specific minimum size requirements for 11 peach varieties that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2006 season. This rule also removes the variety-specific minimum size requirements for seven varieties of peaches whose shipments fell below 5,000 containers during the 2006 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the May Snow variety of peaches, which was recommended for regulation at a minimum size 88. Studies of the size ranges attained by the May Snow variety revealed that 97.8 percent of the containers met the minimum size of 88 during the 2005 and 2006 seasons. The sizes ranged from size 40 to size 88, with 11.6 percent of the containers meeting the size 40, 19.2 percent meeting the size 50, 45.7 percent meeting the size 60, 15.1 percent meeting the size 70, 3.4 percent meeting the size 80, 2.3 percent meeting the size 84, and 0.5 percent meeting the size 88 in the 2006 season.

A review of other varieties with the same harvesting period indicated that the May Snow variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to pack the variety confirm this information regarding minimum size and the harvesting period, as well. Thus, the recommendation to place the May Snow variety in the variety-specific minimum size regulation at a minimum size 88 is appropriate.

Historical data such as this provides the committee with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at committee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, paragraph (a)(2) of § 917.459 is revised to include the Snow Angel peach variety; paragraph (a)(3) of § 917.459 is revised to include the May Snow peach variety; paragraph (a)(4) of § 917.459 is revised to include the May Saturn (Early Saturn) peach variety; paragraph (a)(5) of § 917.459 is revised to include the Candy Red, Raspberry, and Sugar Jewel peach varieties; and paragraph (a)(6) of § 917.459 is revised to include the Burpeachfifteen (Summer Flame® 34), Burpeachsixteen, Burpeachtwenty (Summer Flame®), Galaxy, and Snow Magic peach varieties.

Section (a)(4) is currently reserved for any varieties which will be regulated at a size 84. The May Saturn (Early Saturn) variety, as noted above, will be regulated at size 84 under (a)(4).

This rule also revises paragraph (a)(5) of § 917.459 to remove the May Sun and Snow Prince peach varieties and paragraph (a)(6) of § 917.459 to remove the 24–SB, Crimson Queen, Jupiter, Red Giant, and Spring Gem peach varieties from the variety-specific minimum size requirements because less than 5,000 containers of each of these varieties was produced during the 2006 season.

Peach varieties removed from the peach variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The committees recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine and peach varieties, and the consumer acceptance levels for various fruit sizes. This rule is designed to establish minimum size requirements for fresh nectarines and peaches consistent with expected crop and market conditions.

Reporting Requirements

Sections 916.60 and 917.50 of the orders authorize the establishment of reporting requirements for nectarines and peaches, respectively. Currently, under sections 916.160, 917.178, and 917.179, handlers are required to file certain reports pertaining to daily packouts, annual shipments, and shipment destinations. The collection and dissemination of statistical information has been a valuable component of the programs, as it provides growers and handlers with information which enhances their decision-making ability.

As previously discussed, a State marketing program has recently been implemented for the California peach and nectarine industries, which include the collection and dissemination of statistical information. Accordingly, there is no longer a need to require these handler reports under the orders. Therefore, at their February 9, 2007, meetings, the committees recommended removing current handler reporting requirements, beginning with the 2007 season. The committees have implemented a memorandum of understanding to share information with the new State marketing order, so information collected by the State program can be utilized by the committees.

This rule removes reporting requirements in § 916.160 for nectarines and §§ 917.178 and 917.179 for peaches. This action should reduce handler costs under the orders.

This rule reflects the need to revise the handling and reporting requirements for California nectarines and peaches. This rule is intended primarily to reduce costs and should therefore have a beneficial impact on producers, handlers, and consumers of fresh California nectarines and peaches. This rule is also intended to maintain the perceived value of the ''California well matured'' certification mark by maintaining current grade, size, quality, pack, container and inspection requirements on fruit packed and labeled as ''California Well Matured'' or ''CA WELL MAT.''

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Industry Information

There are approximately 175 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 676 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those whose annual receipts are less than $6,500,000. Small agricultural producers are defined by the SBA as those having annual receipts of less than $750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are fewer than 26 handlers in the industry who would not be considered small entities. For the 2006 season, the committees' staff estimated that the average handler price received

was $9.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 722,223 containers to have annual receipts of $6,500,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2006 season, the committees' staff estimates that small handlers represent approximately 85 percent of all the handlers within the industry.

The committees' staff has also estimated that fewer than 68 producers in the industry would not be considered small entities. For the 2006 season, the committees estimated the average producer price received was $4.50 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 166,667 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2006 season, the committees' staff estimates that small producers represent more than 90 percent of the producers within the industry.

With an average producer price of $4.50 per container or container equivalent, and a combined packout of nectarines and peaches of 36,388,996 containers, the value of the 2006 packout is estimated to be $163,750,482. Dividing this total estimated grower revenue figure by the estimated number of producers (676) yields an estimate of average revenue per producer of about $242,234 from the sales of peaches and nectarines.

Regulatory Revisions

Under authority provided in §§ 916.52 and 917.41 of the orders, grade, size, maturity, pack, and container marking requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. The committees met on February 9, 2007, and unanimously recommended that these handling requirements be revised for the 2007 season. This rule: (1) Eliminates grade, size, maturity, pack, container and inspection requirements for all California nectarines and peaches except those packed in containers labeled ''California Well Matured'' or ''CA WELL MAT''; (2) Makes seasonal adjustments to the handling requirements applicable to California Well Matured fruit; and (3) Removes certain handler reporting requirements that are deemed no longer necessary.

Container and Pack Requirements—Discussions and Alternatives

Sections 916.350 and 917.442 establish container and pack requirements. The committees discussed removing all handling regulations under the Federal orders, including inspection requirements. However, the industry believes that buyers value the committees' ''CA WELL MAT'' mark as an indicator of high quality and may be willing to pay a premium price for fruit marked as such. Accordingly, they decided to maintain current grade, quality, maturity, size container, pack and inspection requirements for ''well matured'' fruit. The committees, thus, recommended revising the handling regulations to cover only nectarines and peaches packed in containers marked ''CA WELL MAT'' or ''California Well Matured''.

Lot Stamping Requirements—Discussions and Alternatives

Sections 916.115 and 917.150 establish lot stamping requirements. This rule revises lot stamping requirements to require such markings only on containers labeled ''CA WELL MAT'' or ''California Well Matured''. An alternative would be to leave the existing lot stamping requirements unchanged, but the requirements would not be consistent with the other recommended changes and would result in unnecessary expenses for industry handlers. Based on this, the committees recommended revising lot stamping requirements to require such markings only on containers labeled ''CA WELL MAT'' or ''California Well Matured.''

Weight Marking Requirements—Discussions and Alternatives

Sections 916.350 and 917.442 also establish weight marking requirements for nectarines and peaches packed in Euro type volume-filled containers. These require each five down Euro container of loose-filled nectarines or peaches to be marked with the words ''29 pounds net weight''.

In the past, handlers' sales to their retail customers have been based on set net weights for most pack styles. With the changing marketing environment, some retailers want volume-filled pack styles that have the same net weight as tray pack styles, especially for the Euro type containers.

Handlers either respond to the requests of the retailers or risk losing business from those retailers. The committees agreed that weight markings are no longer necessary; and, in turn, at their February 9, 2007, meetings recommended eliminating the Euro type container weight marking requirement.

Without the weight marking requirements, nectarines and peaches packed in Euro style volume-filled containers can be packed to the buyers' preferences. The committees believe that the elimination of marking requirements will satisfy the stated needs of retailers and will open additional market opportunities for the industry.

Grade and Quality Requirements—Discussions and Alternatives

Sections 916.356 and 917.459 establish minimum grade and quality requirements. The NAC and PCC previously discussed removing all handling regulations under the orders in favor of regulations under the newly-promulgated State marketing order. However, the industry still wanted to retain quality standards for fruit marketed as ''CA WELL MAT'', a term which has value to buyers and the industry. One alternative the committees discussed was to allow handlers to use the mark under a licensing agreement with CTFA. Taking into account enforcement concerns, this approach was viewed as not feasible.

At their February 9, 2007, meetings, the committees recommended revising the grade and quality requirements to apply only to nectarines and peaches packed in containers marked ''CA WELL MAT'' or ''California Well Matured'' beginning with the 2007 season. This action will ensure that fruit packed in containers marked ''CA WELL MAT'' or ''California Well Matured'' continues to be inspected and meet applicable grade and quality requirements. For this reason, the committees unanimously recommended the revisions and believe that they will help accomplish the goals of the industry.

Minimum Maturity and Size Requirements—Discussions and Alternatives

Sections 916.356 and 917.459 establish minimum fruit maturity levels. This rule makes adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on measurements suggested by maturity guides (e.g., color chips), as reviewed and recommended by the Inspection Service annually to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect refinements in measurements of the maturity characteristics of nectarines and peaches as observed during previous seasons' inspections. Adjustments in the

guides utilized ensure acceptable fruit maturity and increased consumer satisfaction while benefiting nectarine and peach producers and handlers.

Sections 916.356 and 917.459 of the orders' rules and regulations also specify minimum sizes for various varieties of nectarines and peaches. This rule makes adjustments to the minimum sizes authorized for certain varieties of each commodity for the 2007 season. Minimum size regulations are put in place to encourage producers to leave fruit on the trees for a longer period of time, increasing both maturity and fruit size. Increased fruit size increases the number of packed containers per acre, and coupled with heightened maturity levels, also provides greater consumer satisfaction, which in turn fosters repeat purchases that benefit producers and handlers alike.

Annual adjustments to minimum sizes of nectarines and peaches, such as these, are recommended by NAC and PCC based upon historical data, producer and handler information regarding sizes attained by different varieties, and trends in consumer purchases.

An alternative to such action would include not establishing minimum size regulations for these new varieties. Such an action, however, would be a significant departure from the committees' past practices and represent a significant change in the regulations as they currently exist. For these reasons, this alternative was not recommended.

Sections 916.356 and 917.459 of the orders' rules and regulations also specify size requirements for handlers of late season nectarine and peach varieties wishing to pack smaller sized fruit as long as the fruit was ''well matured.'' Since only containers marked ''CA WELL MAT'' or ''California Well Matured'' will be subject to minimum size requirements, this rule also revises the size regulations to remove these obsolete size options.

Reporting Requirements—Discussions and Alternatives

Sections 916.160 and 917.178 establish reporting requirements for nectarine and peach handlers, respectively. Similar reporting requirements have been established under the newly-implemented California State marketing program. Accordingly, collection of this information under the Federal orders is no longer necessary. The committees have implemented a memorandum of understanding to share information with the new State marketing order, so information collected by the State program can be utilized by the committees. An alternative would be to maintain the reporting requirements, but this would result in an unnecessary reporting burden. For this reason, the removal of reporting requirements was unanimously recommended by both committees.

The committees make recommendations regarding the revisions in handling and reporting requirements after considering all available information, including comments received by committee staff. At the meetings, the impact of and alternatives to these recommendations are deliberated. The committees consist of individual producers and handlers with many years of experience in the industry who are familiar with industry practices and trends. All committee meetings are open to the public and comments are widely solicited. In addition, minutes of all meetings are distributed to committee members and others who have requested them, and are also available on the committees' Web site, thereby increasing the availability of this critical information within the industry.

Regarding the impact of this action on the affected entities, each of the recommended changes is expected to generate financial benefits for producers and handlers through reduced costs and increased fruit sales. Both large and small entities are expected to benefit from the changes, and the costs of compliance are not expected to be significantly different between large and small entities.

This rule reduces reporting and recordkeeping requirements on both small and large nectarine and peach handlers regulated under the orders. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements being removed by this rule are currently approved by the Office of Management and Budget (OMB), under OMB No. 0581–0189, Generic OMB Fruit Crops. Removal of the reporting requirements under Parts 916 and 917 is expected to reduce the reporting burden on small or large peach and nectarine handlers by 370 hours, and should further reduce industry expenses.

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

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the committees' meetings are widely publicized throughout the nectarine and peach industry and all interested parties are encouraged to attend and participate in committee deliberations on all issues. These meetings are held annually in the fall, winter, and spring. During the February 9, 2007, meetings, all entities, large and small, were encouraged to express views on these issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following Web site: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on changes to the handling and reporting requirements currently prescribed under the marketing orders for California fresh nectarines and peaches. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act. With regard to revision to the rules and regulations under the order and concerning those provisions that are removed or terminated, it is found that those provisions no longer tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule should be implemented as soon as possible, since shipments of California nectarines and peaches are expected to begin in early April; (2) this rule relaxes handling and reporting requirements for nectarines and peaches; (3) the committees met and unanimously recommended these changes at public meetings, and

interested persons had opportunities to provide input at all those meetings; and (4) the rule provides a 60-day comment period, and any written comments timely received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

■ 1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

■ 2. Section 916.115 is revised to read as follows:

§ 916.115 Lot stamping.

Except when loaded directly into railway cars, exempted under § 916.110, or for nectarines mailed directly to consumers in consumer packages, all exposed or outside containers of nectarines marked ''CA WELL MAT'' or ''California Well Matured'', and not less than 75 percent of the total containers on a pallet, shall be plainly stamped, prior to shipment, with a Federal-State Inspection Service lot stamp number, assigned by such Service, showing that such fruit has been USDA inspected in accordance with § 916.55: *Provided*, That pallets of returnable plastic containers shall have the lot stamp numbers affixed to each pallet with a USDA-approved pallet tag, in addition to the lot stamp numbers and other required information on cards on the individual containers.

■ 3. Section 916.160 is removed.

■ 4. Section 916.350 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (a)(3);

■ c. Removing paragraph (a)(8); and

■ d. Redesignating current paragraphs (a)(9) through (a)(11) as (a)(8) through (a)(10) to read as follows:

§ 916.350 California nectarine container and pack regulation.

(a) During the period beginning April 1 and ending October 31, no handler shall ship any package or container of any variety of nectarines marked ''CA WELL MAT'' or ''California Well Matured'' except in accordance with the following terms and conditions:

* * * * *

(3) Each package or container of nectarines bearing the words ''California Well Matured'' or ''CA WELL MAT'' shall be well matured as defined in § 916.356.

* * * * *

■ 5. Section 916.356 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (a)(1) introductory text;

■ c. Revising Table 1 of paragraph (a)(1)(iv) (excluding the note following the table);

■ d. Revising the introductory text of paragraphs (a)(3), (a)(4), and (a)(6)

■ e. Revising paragraphs (a)(6)(i) and (a)(6)(ii); and

■ f. Revising paragraphs (a)(9)(i) and (a)(9)(ii) to read as follows:

§ 916.356 California nectarine grade and size regulation.

(a) During the period beginning April 1 and ending October 31, no handler shall ship any package or container of any variety of nectarines marked ''CA WELL MAT'' or ''California Well Matured'' except in accordance with the following terms and conditions:

(1) Any lot or package or container of any variety of nectarines shall meet the requirements of U.S. No. 1 grade: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further,* That nectarines of the Peento type shall be permitted blossom end cracking that is well healed and does not exceed the aggregate area of a circle ⅜ inch in diameter, and/or does not exceed a depth that exposes the pit: *Provided further,* That any handler may handle nectarines if such nectarines meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 40 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Nectarines; and that such nectarines are well mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A variety	Column B maturity guide
Alshir Red	J
Alta Red	J
April Glo	H
August Fire	L
August Glo	L
August Lion	J
August Red	J
Aurelio Grand	F
Autumn Delight	L
Big Jim	J
Burnectone (Spring Ray®)	L
Burnectseven (Summer Flare® 28).	J
Burnectten (Spring Flare® 19)	H
Burnecttwelve (Sweet Flare® 21)	I
Candy Gold	L
Crimson Baby	G
Diamond Bright	J
Diamond Jewel	L
Diamond Ray	L
Earliglo	I
Early Diamond	J
Early Red Jim	J
Early Sungrand	H
Emelia	J
Fairlane	L
Fantasia	J
Firebrite	H
Fire Sweet	J
Flame Glo	L
Flamekist	L
Flaming Red	K
Flavortop	J
Gee Sweet	L
Grand Candy	J
Grand Diamond	L
Grand Sweet	J
Gran Sun	L
Honey Blaze	J
Honey Dew	B*
Honey Fire	L
Honey Kist	I
Honey Royale	J
July Red	L
June Brite	I
June Candy	K
Juneglo	H
Kay Diamond	L
Kay Glo	J
Kay Sweet	J
King Jim	L
Kism Grand	J
Larry's Red	J
Late Le Grand	L
Late Red Jim	J
Mango	B*
May Diamond	I
May Fire	H
Mayglo	H
May Grand	H

TABLE 1—Continued

Column A variety	Column B maturity guide
May Kist	H
Mid Glo	L
Moon Grand	L
Niagra Grand	H
P–R Red	L
Prince Jim	L
Prince Jim I	L
Prima Diamond VII	L
Prima Diamond XIII	L
Prima Diamond XIX	L
Red Delight	I
Red Diamond	L
Red Fred	J
Red Free	L
Red Glen	J
Red Glo	I
Red Jewel	L
Red Jim	L
Red May	J
Red Roy	J
Regal Red	K
Rio Red	L
Rose Diamond	J
Royal Giant	I
Royal Glo	I
Ruby Diamond	L
Ruby Fire	G
Ruby Grand	J
Ruby Sun	J
Ruby Sweet	J
Scarlet Red	K
September Bright	J
September Free	J
September Grand	L
September Red	L
Shay Sweet	J
Sheri Red	J
Sparkling June	L
Sparkling May	J
Sparkling Red	L
Spring Bright	L
Spring Diamond	L
Spring Red	H
Spring Sweet	J
Star Brite	J
Sugar Queen	L
Summer Beaut	H
Summer Blush	J
Summer Bright	J
Summer Diamond	L
Summer Fire	L
Summer Grand	L
Summer Jewel	L
Summer Lion	L
Summer Red	L
Sunburst	J
Sun Diamond	I
Sunecteight (Super Star)	G
Sun Grand	G
Sunny Red	J
Tom Grand	L
WF 1	J
Zee Fire	J
Zee Glo	J
Zee Grand	I

* Predominant ground color must be breaking yellowish green.

* * * * *

(3) Any package or container of Mayglo variety of nectarines on or after May 6 of each year, or Burnectfive (Spring Flare® 21), Burnectten (Spring Flare® 19), Crimson Baby, Earliglo, Red Jewel or Zee Fire variety nectarines unless:

* * * * *

(4) Any package or container of Arctic Star, Burnectone (Spring Ray®), Burnecttwelve (Sweet Flair® 21), Diamond Bright, Diamond Pearl, Early Pearl, Gee Sweet, June Pearl, Kay Fire, Kay Glo, Kay Sweet, Prima Diamond IV, Prima Diamond VI, Prima Diamond XIII, Prince Jim, Prince Jim 1, Red Roy, Rose Bright, Rose Diamond, Royal Glo, or Zee Grand variety nectarines unless:

* * * * *

(6) Any package or container of Alta Red, Arctic Belle, Arctic Blaze, Arctic Gold, Arctic Ice, Arctic Jay, Arctic Mist, Arctic Pride, Arctic Queen, Arctic Snow (White Jewel), Arctic Sweet, August Bright, August Fire, August Glo, August Lion, August Pearl, August Red, August Snow, August Sweet, Autumn Blaze, Big Jim, Bright Pearl, Burnectfour (Summer Flare® 35), Burnectseven (Summer Flare® 28), Burnectseventeen (Summer Flare® 32), Candy Gold, Candy Pearl, Diamond Ray, Early Red Jim, Fire Pearl, Fire Sweet, Flaming Red, Giant Pearl, Grand Candy, Grand Pearl, Grand Sweet, Honey Blaze, Honey Dew, Honey Diva, Honey Fire, Honey Kist, Honey Royale, July Pearl, July Red, Kay Pearl, La Pinta, Larry's Red, Late Red Jim, Mike's Red, P–R Red, Prima Diamond VII, Prima Diamond IX, Prima Diamond X, Prima Diamond XVIII, Prima Diamond XIX, Prima Diamond XXIV, Prima Diamond XXVIII, Prince Jim 3, Red Diamond, Red Glen, Red Jim, Red Pearl, Regal Pearl, Regal Red, Royal Giant, Ruby Diamond, Ruby Pearl, Ruby Sweet, September Bright (26P–490), September Free, September Red, Sparkling June, Sparkling Red, Spring Bright, Spring Pearl™, Spring Sweet, Sugarine, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Jewel, Summer Lion, Summer Red, Sunburst, Sun Valley Sweet, Terra White, Zee Glo or Zephyr variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 84 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(6)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 76 nectarines, except for Peento-type nectarines.

* * * * *

(9) * * *

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 84 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(9)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 76 nectarines, except for Peento-type nectarines.

* * * * *

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

■ 6. Section 917.150 is revised to read as follows:

§ 917.150 Lot stamping.

Except when loaded directly into railway cars, exempted under § 917.143, or for peaches mailed directly to consumers in consumer packages, all exposed or outside containers of peaches marked ''CA WELL MAT'' or ''California Well Matured'', and not less than 75 percent of the total containers on a pallet, shall be plainly stamped, prior to shipment, with a Federal-State Inspection Service lot stamp number, assigned by such Service, showing that such fruit has been USDA inspected in accordance with § 917.45: Provided, That pallets of returnable plastic containers shall have the lot stamp numbers affixed to each pallet with a USDA-approved pallet tag, in addition to the lot stamp numbers and other required information on cards on the individual containers.

§ 917.178 [Removed]

■ 7. Section 917.178 is removed.

§ 917.179 [Amended]

■ 8. In § 917.179, the suspension of March 3, 1994 (59 FR 10056), is lifted.

§ 917.179 [Removed]

■ 9. Section 917.179 is removed.

■ 10. Section 917.442 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (a)(3);

■ c. Removing paragraph (a)(9); and

■ d. Redesignating current paragraphs (a)(10) through (a)(12) as (a)(9) through (a)(11) to read as follows:

§ 917.442 California peach container and pack regulation.

(a) During the period beginning April 1 and ending November 23, no handler shall ship any package or container of any variety of peaches marked ''CA WELL MAT'' or ''California Well Matured'' except in accordance with the following terms and conditions:

* * * * *

(3) Each package or container of peaches bearing the words ''California Well Matured'' or ''CA WELL MAT'' shall be well matured as defined in § 917.459.

* * * * *

■ 11. Section 917.459 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (a)(1) introductory text;

■ c. Revising Table 1 of paragraph (a)(1)(iv) (excluding the note following the table);

■ d. Revising the introductory text of paragraphs (a)(2), (a)(3), (a)(4), (a)(5) and (a)(6); and

■ e. Revising paragraphs (a)(6)(i) and (a)(6)(iii) to read as follows:

§ 917.459 California peach grade and size regulation.

(a) During the period beginning April 1 and ending November 23, no handler shall ship any package or container of any variety of peaches marked ''CA WELL MAT'' or ''California Well Matured'' except in accordance with the following terms and conditions:

(1) Any lot or package or container of any variety of peaches shall meet the following requirements of U.S. No. 1 grade: *Provided,* That an additional 25 percent tolerance shall be permitted for fruit with open sutures which are damaged, but not seriously damaged: *Provided further,* That peaches of the Peento type shall be permitted blossom end cracking that is well healed and does not exceed the aggregate area of a circle ⅜ inch in diameter, and/or does not exceed a depth that exposes the pit; *Provided further,* That any handler may handle peaches if such peaches meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 40 percent of the peaches in any container meet or exceed the requirement of the U.S. No. 1 grade, except that when more than 30 percent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Peaches; and that such peaches are well mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A variety	Column B maturity guide
Angelus	I
August Dream	J
August Lady	L
Autumn Flame	J
Autumn Gem	I
Autumn Lady	H
Autumn Red	J
Autumn Rose	H
Bev's Red	I
Blum's Beauty	G
Bright Princess	L
Brittney Lane	J
Burpeachfive (July Flame®)	L
Burpeachfourteen (Spring Flame® 20).	J
Burpeachone (Spring Flame® 21).	J
Burpeachsix (June Flame®)	L
Burpeachthree (September Flame®).	I
Burpeachtwo (Henry II®)	J
Cal Red	I
Candy Red	J
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
Country Sweet	J
David Sun	I
Diamond Princess	J
Earlirich	H
Earlitreat	H
Early Delight	H
Early Elegant Lady	L
Early May Crest	H
Early O'Henry	I
Early Top	G
Elberta	B
Elegant Lady	L
Fairtime	G
Fancy Lady	J
Fay Elberta	C
Fire Red	I
First Lady	D
Flamecrest	I
Flavorcrest	G
Flavor Joy	H
Flavor Queen	H
Flavor Red	G
Franciscan	G
Goldcrest	H
Golden Princess	L
Henry III	J
Honey Red	G
Island Princess	H
Joanna Sweet	J
John Henry	J
July Elberta	C
June Lady	G
Junelicious	I
June Pride	J
Kaweah	L
Kern Sun	H
Kingscrest	H
Kings Lady	I
Kings Red	I
King Sweet	I

TABLE 1—Continued

Column A variety	Column B maturity guide
Lacey	I
Lady Lou	I
Lady Sue	L
Late Ito Red	L
Madonna Sun	J
Magenta Queen	J
May Crest	G
May Sun	I
May Sweet	I
Merrill Gem	G
Merrill Gemfree	G
Morning Lord	J
O'Henry	I
Pacifica	G
Pretty Lady	J
Prima Gattie 8	L
Prima Gattie 10	J
Prima Peach IV	J
Prima Peach 23	J
Queencrest	G
Ray Crest	G
Red Dancer (Red Boy)	I
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rich Mike	H
Rio Oso Gem	I
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
September Sun	I
Sharise	J
Shelly	J
Sierra Gem	J
Sierra Lady	I
Sierra Rich	J
Sparkle	I
Sprague Last Chance	L
Springcrest	G
Spring Delight	G
Spring Gem	J
Spring Lady	H
Springtreat (60EF32)	I
Sugar Time (214LC68)	I
Summer Fling	L
Summer Kist	J
Summer Lady	L
Summerset	I
Summer Zee	L
Suncrest	G
Supechfour (Amber Crest)	G
Super Chief	H
Super Rich	H
Sweet Amber	J
Sweet Blaze	J
Sweet Crest	H
Sweet Dream	J
Sweet Gem	J
Sweet Kay	J
Sweet Mick	J
Sweet Scarlet	J
Sweet September	I
Topcrest	H
Tra Zee	J
Vista	J
Willie Red	G

TABLE 1—Continued

Column A variety	Column B maturity guide
Zee Diamond	J
Zee Lady	L

* * * * *

(2) Any package or container of April Snow, Earlitreat, Snow Angel, Sugar Snow, or Supeachsix (91002) variety peaches unless:

* * * * *

(3) Any package or container of Island Prince, May Snow, Snow Kist, Snow Peak or Super Rich variety peaches unless:

* * * * *

(4) Any package or container of May Saturn (Early Saturn) variety peaches unless:

* * * * *

(5) Any package or container of Babcock, Bev's Red, Bright Princess, Brittney Lane, Burpeachone (Spring Flame® 21), Burpeachfourteen (Spring Flame® 20), Burpeachnineteen (Spring Flame® 22), Candy Red, Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, Honey Sweet, Ivory Queen, June Lady, Magenta Queen, May Crest, May Sweet, Prima Peach IV, Queencrest, Raspberry, Rich May, Scarlet Queen, Sierra Snow, Snow Brite, Springcrest, Spring Lady, Spring Snow, Springtreat (60EF32), Sugar Jewel, Sugar Time (214LC68), Sunlit Snow (172LE81), Supecheight (012–094), Sweet Scarlet, Sweet Crest or Zee Diamond variety peaches unless:

* * * * *

(6) Any package or container of August Lady, Autumn Flame, Autumn Red, Autumn Rich, Autumn Rose, Autumn Snow, Burpeachfifteen (Summer Flame® 34), Burpeachfive (July Flame®), Burpeachfour (August Flame®), Burpeachseven (Summer Flame® 29), Burpeachsix (June Flame®), Burpeachsixteen, Burpeachthree (September Flame®), Burpeachtwenty (Summer Flame®), Burpeachtwo (Henry II®), Coral Princess, Country Sweet, Diamond Princess, Earlirich, Early Elegant Lady, Elegant Lady, Fancy Lady, Fay Elberta, Full Moon, Galaxy, Glacier White, Henry III, Henry IV, Ice Princess, Ivory Princess, Jasper Treasure, Jillie White, Joanna Sweet, John Henry, Kaweah, Klondike, Last Tango, Late Ito Red, Magenta Gold, O'Henry, Pink Giant, Pink Moon, Prima Gattie 8, Prima Peach 13, Prima Peach XV, Prima Peach 20, Prima Peach 23, Prima Peach XXVII, Princess Gayle, Rich Lady, Royal Lady, Ruby Queen, Ryan Sun, Saturn (Donut), Scarlet Snow, September Snow, September Sun, Sierra Gem, Sierra Rich, Snow Beauty, Snow Blaze, Snow Fall, Snow Gem, Snow Giant, Snow Jewel, Snow King, Snow Magic, Snow Princess, Sprague Last Chance, Spring Candy, Sugar Crisp, Sugar Giant, Sugar Lady, Summer Dragon, Summer Lady, Summer Sweet, Summer Zee, Sweet Blaze, Sweet Dream, Sweet Kay, Sweet September, Tra Zee, Valley Sweet, Vista, White Lady, or Zee Lady variety peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

* * * * *

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches, except for Peento type peaches.

* * * * *

Dated: April 11, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–1867 Filed 4–11–07; 3:42 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2295–03; USCIS–2004–0001]

RIN 1615–AB17

Petitioning Requirements for the O and P Nonimmigrant Classifications

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends Department of Homeland Security regulations to permit petitioners to file O and P nonimmigrant petitions up to one year prior to the petitioner's need for the alien's services. This amendment will enable petitioners who are aware of their need for the services of an O or P nonimmigrant well in advance of a scheduled event, competition, or performance to file their petitions under normal processing procedures. This way, petitioners will be better assured that they will receive a decision on their petitions in a timeframe that will allow them to secure the services of the O or P nonimmigrant when such services are needed.

DATES: This rule is effective May 16, 2007.

FOR FURTHER INFORMATION CONTACT: Hiroko Witherow, Adjudications Officer, Business and Trade Services Branch/Program and Regulation Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, telephone (202) 272–9135.

SUPPLEMENTARY INFORMATION:

I. Background

Under the O nonimmigrant classification, a U.S. employer, U.S. agent, or a foreign employer through a U.S. agent, may petition for an alien who has extraordinary ability in the arts, the sciences, education, business or athletics that has been demonstrated by sustained national or international acclaim to come to the United States temporarily to continue work in the area of extraordinary ability. Immigration and Nationality Act (INA) sec. 101(a)(15)(O)(i), 8 U.S.C. 1101(a)(15)(O)(i); 8 CFR 214.2(o)(1) & (2). In addition, such employer or agent also may use the O nonimmigrant classification to petition for an alien who has a demonstrated record of extraordinary achievement in motion picture or television productions to come to the United States temporarily to continue work in the area of extraordinary achievement. *Id.* Under the P nonimmigrant classification, a U.S. employer, U.S. sponsoring organization, U.S. agent, or a foreign employer through a U.S. agent, may petition for an alien who is coming temporarily to the United States to perform at a specific athletic competition as an athlete at an internationally recognized level or performance, or to perform with an entertainment group that has been recognized internationally as being outstanding. INA sec. 101(a)(15)(P), 8 U.S.C. 1101(a)(15)(P); 8 CFR 214.2(p)(1) & (2). Such employer, agent, or sponsor also can use the P nonimmigrant classification to petition for an alien to come temporarily to the United States to perform as an artist or entertainer under a reciprocal exchange program between organizations in the United States and organizations in a foreign country. *Id.* Finally, such employer, agent, or sponsor can use the P nonimmigrant classification to petition for an alien artist or entertainer to come temporarily to the United States to perform, teach, or coach under a commercial or noncommercial program that is

culturally unique. *Id.* Both the O and P nonimmigrant classifications also apply to essential support personnel coming to the United States to assist an O or P nonimmigrant in his or her artistic or athletic performance. *See* INA sec. 101(a)(15)(O)(ii), 8 U.S.C. 1101(a)(15)(O)(ii); 8 CFR 214.2(p)(4)(iv), (5)(iii) & (6)(iii).

Petitions for the O and P nonimmigrant classifications are filed on Form I–129, ''Petition for Nonimmigrant Worker.'' 8 CFR 214.2(o)(2)(i); 8 CFR 214.2(p)(2)(i). The current regulations governing both O and P nonimmigrants preclude the petitioner from filing a Form I–129 more than six months before the actual need for the alien's services. 8 CFR 214.2(o)(2)(i); 8 CFR 214.2(p)(2)(i). The timing of filings by petitioners, combined with current U.S. Citizenship and Immigration Service (USCIS) processing times, often result in USCIS completing the adjudication of an O or P nonimmigrant petition at the same time or later than the date of the petitioner's need for the alien. This creates a hardship for petitioners who are seeking to employ the alien based on a scheduled performance, competition, or event, and who already may have booked a venue and sold advance tickets. If the petition is not approved by the time of the petitioner's need for the alien's services, the petitioner may be required to cancel a scheduled event or performance, may lose funds advanced for booking a venue, and may be liable for the costs associated with ticket refunds as well as other costs. If petitioners were able to file Forms I–129 for O or P nonimmigrant status more than six months in advance of the need for the alien's services, USCIS could ensure that adjudication is completed in advance of the date of the scheduled event, competition, or performance. Moreover, a large percentage of O and P petitioners seeking alien performers or athletes often schedule and must plan for competitions, events, or performances more than one year in advance.

For these reasons, USCIS issued a rule proposing to amend 8 CFR 214.2(o)(2)(i) and 8 CFR 214.2(p)(2)(i) governing the O and P nonimmigrant petition filing process. 70 FR 21983–01 (Apr. 28, 2005). The proposed rule extended the time period that petitioners may file Form I–129 to not more than one year before the date of the petitioner's need for the alien's services. 70 FR at 21985. The proposed rule also would have required petitioners to submit Forms I–129 no later than six months before the alien's services were required. The proposed rule also provided that USCIS would grant exceptions in emergency situations to allow a petitioner to submit a petition later than six months at the discretion of the USCIS Service Center Director, and in special filing situations as determined by USCIS Headquarters. *Id.*

USCIS specifically invited comments on whether it should extend the one-year maximum/six-month minimum filing timeframes to all nonimmigrants for whom Forms I–129 are filed. 70 FR at 21984. USCIS also requested comments on whether the extension of the filing time to one year would increase the potential for fraud or abuse of the O and P classifications and other nonimmigrant categories covered by Form I–129. USCIS solicited suggestions for addressing such fraud or abuse should it occur.

The comment period for the proposed rule ended June 27, 2005. USCIS received a total of 112 comments. Based upon these comments, this final rule adopts the proposed rule amending 8 CFR 214.2(o)(2)(i) and 214.2(p)(2)(i), but without the six-month filing minimum and possibility for granting exceptions. The following is a discussion of the comments received for the proposed rule.

II. Discussion of Comments

Of the 112 comments received, 110 comments supported the proposal to extend the allowable petition filing time from the current six months to one year in advance of the petitioning employer's need for the services of the O or P nonimmigrant. However, these commenters also expressed their strong objection to the proposed requirement that petitions for O and P nonimmigrant status must be filed with USCIS no later than six months in advance of the employment need. Of the remaining two comments, one comment simply suggested a semantics change to the regulatory text. The other comment did not specifically address the provisions of the proposed rule and therefore will not be addressed.

A total of fifty-three comments were submitted by performing arts organizations, such as theatre companies, symphony and orchestra companies, opera companies, dance companies, ballet companies, circuses, and dance centers. These comments stated that the filing period should simply be extended to one year in advance of the employment need, and not impose a six-month minimum filing period. The comments noted that the proposed requirement that the petition be filed at least six months before the petitioning employer's need for the services of the O or P nonimmigrant would cause significant scheduling problems. Performing arts organizations emphasized that USCIS must reduce the regular processing times, provide updated and accurate forms and instructions, and implement uniform policies and training at its service centers.

USCIS received seventeen comments from firms and agencies that are involved in the representation, publicity, and management of various organizations involved in the performing arts. These firms and agencies noted that there are numerous situations where the event is planned less than six months prior to the performance. They emphasized that the requirement that petitioners file petitions for O and P nonimmigrant status at least six months in advance of the employment need has no real value.

In addition, these firms and agencies responded negatively to the proposed discretionary authority of USCIS to grant exceptions to the timeframes in emergency and special filing situations. They stated that through such a provision, USCIS would become the sole arbiter of the urgency of an employer's employment needs. USCIS would decide whether to grant an exception on a case-by-case basis, leading to an inconsistent application of the use of discretion.

Educational institutions submitted a total of fourteen comments. These comments stated simply that USCIS should extend the filing period to one year in advance of the employment need, and that USCIS should not limit the filing period to six-month filing period between six months and one year in advance of the employment need. These educational institutions advised that generally academic appointments are not finalized more than six months prior to the employment start date, as offers are typically made in late spring for academic appointments that begin on July 1.

USCIS received nine comments from national and regional associations affiliated with various performing arts organizations, including the Motion Picture Association of America. Commenters supported extending the allowable petition-filing period to any time up to one year in advance of the employment need. However, they also stated that the proposed requirement to file such petitions at least six months in advance would cause severe hardship to the performing arts industry because employment agreements are rarely in place more than six months before production begins.

Eight comments submitted by immigration attorneys also objected to

the proposed six-month advance filing requirement for petitions. The commenters stated that most employers of O and P nonimmigrants do not have six months lead time when filing petitions. Therefore, according to them, implementation of this rule as proposed would have a damaging effect on the U.S. economy by hobbling the arts, sports, film, and advertising industries.

USCIS received one comment from an organization that specializes in the movement of international personnel across national borders. This comment echoed the concerns of others by stating that the requirement to file the petition at least six months in advance of the employment need does not reflect the practical realities facing the vast majority of petitioners in the fields of science, business, athletics, and entertainment. The comment also opposed allowing USCIS to grant exceptions to the six-month advance filing requirement by stating that such authority would be impractical and insufficient to meet legitimate demands. Like the overwhelming majority of comments, however, this comment supported the proposal to extend the allowable filing period to a maximum of one year in advance of the employment need for O and P petitions. The commenter agreed with USCIS that it should not extend the filing timeline for petitions in the remaining nonimmigrant visa classifications, because the nature of O and P employment is different from other nonimmigrant visa classifications. This commenter stated that extending the filing timeline for other nonimmigrant categories using Form I–129 could lead to fraud and abuse, as well as an increase in case filings where the need for the alien's services has not fully materialized, particularly in the case of H–1B nonimmigrants who are subject to an annual numerical cap on the number of aliens who may be granted H–1B nonimmigrant status.[1] INA sec. 214(g)(1)(A), 8 U.S.C. 1184(g)(1)(A).

The sports industry submitted three comments. USCIS received one comment each from Major League Baseball, the Portland Trail Blazers, and Nike, Inc. Both Nike, Inc. and the Portland Trail Blazers expressed support for the proposed extension of the allowable filing period for O and P petitions to a maximum of one year from the current six months. The comment from Major League Baseball did not support or oppose the proposed extension to a one-year filing period. All three comments from the sports industry opposed proposed requirement to file O and P petitions at least six months prior to the date of employment.

The comment from Major League Baseball urged that the six-month advance filing requirement be eliminated in its entirety. It also pointed out that the needs of Major League Baseball Clubs would always call for exceptions under the provisions of the proposed rule. Major League Baseball Clubs need O and P nonimmigrant players and staff in the United States no later than when spring training begins in February each year. However, personnel decisions by Major League Clubs for an upcoming season begin at the conclusion of the prior season's World Series in October. These personnel decisions continue throughout the winter up until, and even during, spring training. Furthermore, players who are traded during the course of a season from one club to another would not be able to have an O or P petition timely filed on their behalf under the provisions of the proposed rule.

A comment from the Portland Trail Blazers franchise of the National Basketball Association (NBA) stated that the team frequently utilizes O and P nonimmigrant visas to facilitate the employment of foreign world-class basketball players. This comment emphasized that the proposed requirement that O and P petitions be filed at least six months in advance of the employment need is completely unworkable in the NBA. When an NBA basketball player is drafted by an NBA team, the team and the player's agent will negotiate a contract. Due to the detailed nature of these contracts and the high salaries involved, negotiations can be exceptionally complex and time-consuming. The comment stated that experience has shown that the Portland Trail Blazers has never had as much as six months lead time to file an O or P petition once contract negotiations are completed. The comment noted that a signed contract is a filing requirement for either the O or P classifications, and typically the agents and owners of NBA teams agree to the terms and sign the contracts only a few weeks prior to the start of training camp or the NBA season.

The comment further stated that the underlying statute created the O and P nonimmigrant classifications to assist employers seeking to temporarily hire extraordinary foreign workers. The provisions of the proposed rule, on the other hand, would restrict the availability of O and P nonimmigrant visas, contrary to the spirit of the law. The comment asserted that the provisions of the proposed rule would create a ''de facto'' six-month waiting period for employers who wish to employ extraordinary workers, such as internationally recognized basketball players. The comment stated that it is inappropriate for USCIS to create such a holding period that is not authorized by the statute.

Nike, Inc., a sports equipment and apparel company, commented that the proposed requirement to file O and P petitions at least six months in advance of the employer's need for the services of the alien is unwarranted, unworkable, and contrary to the best interests of the United States. This comment mirrors many of the other comments by stating that USCIS should not limit the access of United States employers to high-level O and P nonimmigrants because many companies cannot identify, in the reasonable course of business, the need for an O or P nonimmigrant worker with six months' anticipation.

USCIS received two comments from research organizations, one from Roche Palo Alto LLC, which is a major international pharmaceutical company, and the other from the California Institute of Technology. The commenters stated their opposition to the proposed requirement that employers file O and P petitions at least six months in advance of their need for the alien's services. Roche Palo Alto LLC further stated that the proposed requirement to file petitions for O and P nonimmigrants six months in advance of the petitioner's need could detrimentally impact the company's U.S. research programs and force the company to consider transferring some of its research programs and employees to locations outside the United States to ensure their success. The California Institute of Technology expressed approval of the proposed extension of the allowable filing period for O and P petitions to a maximum of one year. Roche Palo Alto LLC neither supported nor rejected this proposal.

Eight members of Congress submitted one comment. They noted that Congress had previously recommended to USCIS that petitioners for O and P nonimmigrants should be permitted to file up to one year in advance of their employment need for a foreign worker. They also voiced their appreciation for USCIS' attempt to act upon this recommendation. However, these

[1] An H–1B nonimmigrant is an alien who is coming to the United States to perform services in a specialty occupation; perform services of an exceptional nature requiring exceptional merit and ability relating to a cooperative research and development project or a coproduction project provided for under a Government-to-Government agreement administered by the Secretary of Defense; or perform services as a fashion model of distinguished merit and ability. 8 CFR 214.2(h)(1)(ii)(B).

members of Congress strongly urged USCIS to revise the rule to allow filing at any time up to one year in advance rather than requiring such petitions to be filed at least six months in advance. They reminded USCIS that the core problem that must be addressed is the delay in processing petitions. They also encouraged USCIS to continue its efforts to improve overall processing times and not let the one-year filing window become a justification to further delay turnaround time.

Finally, there were two comments submitted by private individuals, each of whom expressed support for extending the allowable petition-filing period to any time up to one year in advance of the employment need. However, these commenters also stated that the proposed requirement to file such petitions at least six months in advance would cause severe hardship to the performing arts industry because employment agreements are rarely in place more than six months before production begins.

III. USCIS Response to Comments

As nearly all comments supported the proposed rule's extension of the O and P nonimmigrant petition filing period, USCIS is adopting the proposed extension. Therefore, this final rule amends 8 CFR 214.2(o)(2)(i) and 214.2(p)(2)(i) to provide that petitioners of O and P nonimmigrants may file petitions at any time up to a maximum of one year in advance of their need for the alien's services.

USCIS is not adopting the proposed requirement that petitions must be filed no sooner than six months prior to the actual need for the alien's services. USCIS also is not adopting the concomitant provision which permits exceptions in emergent situations at the discretion of the USCIS Service Center District Director, or in special filing situations at the discretion of USCIS Headquarters.

As discussed above, USCIS received an overwhelming number of comments opposing the six-month filing minimum requirement. Many commenters noted that employers do not necessarily make offers of employment more than six months prior to the employment start date. They also may not be aware of the need for the services of an O or P nonimmigrant more than six months in advance of the event, competition, or performance. While the proposed rule provided for authority to grant exceptions to the six-month filing minimum requirement, some commenters expressed concern that such discretionary authority would not be applied consistently.

In determining not to include the six-month advance filing limitation in the final rule, USCIS considered the fact that USCIS has reduced the number of backlogged petitions and applications, including the O and P nonimmigrant petitions, thereby reducing overall processing times. See *https://egov.immigration.gov/cris/jsps/ptimes.jsp.* Therefore, there is no longer a need for a six-month minimum period to ensure the timely processing of O and P nonimmigrant petitions. USCIS still encourages petitioners to file O and P nonimmigrant petitions more than six months prior to employment start date when possible. Petitioners should routinely check the USCIS Web site, *http://www.uscis.gov,* to determine the current processing time for the petition they intend to file.

If the need for the services of an O or P nonimmigrant is scheduled to occur prior to current processing times, petitioners should consider filing their petition with a request for Premium Processing Service to guarantee that their petition will be acted upon within fifteen days of receipt.

The final rule does not apply the one-year filing timeframe of this final rule to other nonimmigrant classifications associated with Form I–129. USCIS is in agreement with the only commenter who commented on this point, which was raised in the Supplementary Information to the proposed rule. *See* 70 FR at 21984. The nature of O and P employment is different from other nonimmigrant visa classifications. Extending the filing period for other nonimmigrant classifications using Form I–129 may result in the increased potential for fraud and abuse as well as an increase in case filings where the need for the alien's services has not fully materialized.

IV. Regulatory Requirements

A. Regulatory Flexibility Act

DHS has reviewed this regulation in accordance with 5 U.S.C. 605(b), and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule will help ensure that certain O and P nonimmigrant petitions are adjudicated well in advance of the date of the employers' stated need and thus prevent employers from having to cancel an event, competition or performance either because USCIS denied the petition at the last minute, or because the petition was not adjudicated in advance of the need. Employers will be less likely to lose booking costs or have to issue refunds if they receive a decision on the petition well in advance of the event, competition, or performance. USCIS did not receive any comments stating that this regulation would have a negative impact on small entities. In addition, the rule will help ensure that certain O and P nonimmigrant petitions are adjudicated well in advance of the date of the employers' stated need and thus prevent employers from having to cancel an event, competition or performance either because USCIS denied the petition at the last minute, or because the petition was not adjudicated in advance of the need.

B. Unfunded Mandates Reform Act of 1995

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

C. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

D. Executive Order 12866

This final rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f). Accordingly, this regulation has not been submitted to the Office of Management and Budget for review.

USCIS has assessed both the costs and benefits of this rule and has determined that there are no new costs to either the government or the public associated with this rule. The rule does not alter any of the substantive petitioning requirements related to the Form I–129 or the evidentiary standards for establishing eligibility for the O or P nonimmigrant classification. The rule will help ensure that certain O and P nonimmigrant petitions are adjudicated well in advance of the date of the employers' stated need and thus prevent employers from having to cancel an event, competition or performance

either because the petition was denied at the last minute, or because the petition was not adjudicated in advance of the need. Employers can be confident that they are unlikely to incur unnecessary booking costs or be required to issue refunds due to the cancellation of an event caused by a failure to receive a decision on the petition. Finally, this rule will help those employers who make offers of employment more than six months prior to the employment start date to have sufficient time to seek a new beneficiary or beneficiaries in the event a petition is denied.

E. Executive Order 13132

This rule 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 214

Administrative practice and procedures, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

■ Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2003 Comp., p. 278), 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1372, 1379, 1731–32; section 643, Pub. L. 104–208, 110 Stat. 3009–708; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note, and 1931 note, respectively, 8 CFR part 2.

■ 2. Section 214.2 is amended by:

■ a. Revising the second sentence in paragraph (o)(2)(i); and by

■ b. Revising the tenth sentence in paragraph (p)(2)(i).

The revisions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(o) * * *

(2) * * *

(i) *General.* * * * The petition may not be filed more than one year before the actual need for the alien's services. * * *

* * * * *

(p) * * *

(2) * * *

(i) *General.* * * * The petition may not be filed more than one year before the actual need for the alien's services. * * *

* * * * *

Dated: March 27, 2007.

Michael Chertoff,

Secretary.

[FR Doc. E7–7134 Filed 4–13–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

Alternative Fuel Transportation Program; Alternative Compliance

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

ACTION: Notice of availability of Alternative Compliance Guidelines for preparing and submitting a waiver request and other documentation requirements.

SUMMARY: This notice announces the availability of a Department of Energy (DOE) document that provides guidelines to fleets covered by 10 CFR Part 490 (covered fleets) for submission of an application for a waiver from the alternative fuel vehicle acquisition requirements. In order to obtain a waiver, the requesting covered fleet must show that in lieu of the alternative fuel vehicle acquisitions, it will reduce petroleum consumption in its vehicle fleet by an amount that would equal 100 percent alternative fuel use in all of its existing covered light-duty vehicles. The guidelines provide instructions on making such a showing and illustrate the processing of a waiver request.

ADDRESSES: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of FreedomCAR and Vehicle Technologies, EE–2G, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

The entire document with complete instructions for interested parties, *Alternative Compliance: Guidelines for Preparing and Submitting a Waiver Request and Other Documentation Requirements, 10 CFR Part 490 Subpart I*, may be found at the Web site address: *http://www.eere.energy.gov/vehiclesandfuels/epact/state/state_resources.html*, and is available from Ms. Linda Bluestein, U.S. Department of Energy, Office of FreedomCAR and Vehicle Technologies, EE–2G, Room 5F034, 1000 Independence Avenue, SW., Washington, DC 20585–0121, and by telephone at (202) 586–6116.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bluestein on (202) 586–6116 or *linda.bluestein@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: Section 703 of the Energy Policy Act of 2005 (Pub. L. No. 109–58) added section 514, Alternative Compliance, to title V of the Energy Policy Act of 1992. (42 U.S.C. 13263a) DOE initiated a rulemaking to implement section 514 of the Energy Policy Act of 1992, as amended, (71 FR 36034; June 23, 2006) and published a final rule on March 20, 2007. 72 FR 12958. New Subpart I adds a new compliance option for covered fleets. The option allows a covered fleet to apply to DOE for a waiver from the original alternative fueled vehicle (AFV) acquisition program if it can demonstrate petroleum reduction equal to 100 percent alternative fuel use in covered light-duty vehicles cumulatively acquired by its fleet.

If a covered fleet intends to apply for a waiver, it must file its intent to request a waiver to DOE no later than March 31 of the calendar year before the model year for which the fleet is making its request. For model year 2008, however, the first year covered fleets are eligible for such waivers, the deadline for covered fleets to file an intent to make a waiver application is extended until May 31, 2007. The completed waiver application must be submitted to DOE by June 30 if the information is not dependent on new light-duty vehicle model year information. If the information is dependent on such information, the request must be

submitted by July 31. A waiver request must include a minimum amount of data in order for DOE to make a decision about granting the waiver.

The DOE document *Alternative Compliance: Preparing and Submitting a Waiver Request and Other Documentation Requirements, 10 CFR Part 490 Subpart I*, helps requesting covered fleets by illustrating the data and information requirements as well as DOE's implementation of the waiver provision.

The guidelines include information for covered fleets regarding timing of waiver requests and responses by DOE, waiver documentation and submission requirements, annual reporting of petroleum reductions, use of credits and rollover of excess petroleum reduction, enforcement authority, record retention and appeals.

Issued in Washington, DC, on April 9, 2007.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E7–7133 Filed 4–13–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM374: Special Conditions No. 25–351–SC]

Special Conditions: Dassault Aviation, Model Falcon 7X; Design Roll Maneuvering Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Dassault Aviation Falcon 7X airplane. This airplane will have a novel or unusual design feature associated with an electronic fly-by-wire flight control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These 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: The effective date of these special conditions is April 4, 2007. We must receive your comments by May 16, 2007.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM374, 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. NM374. 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: Rich Yarges, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2143; facsimile (425) 227–1232.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending 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 about these 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 preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by 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 these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us 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 a type certificate for its new Model Falcon 7X. The Dassault Aviation Falcon 7X is a 19 passenger transport category airplane, powered by three aft mounted Pratt & Whitney PW307A high bypass ratio turbofan engines. The airplane is operated using a fly-by-wire electronic flight control system. This flight control system does not provide a mechanical link between the airplane flight control surface and the pilot's cockpit control device as there is on more conventional airplanes. This will be the first application of such a system in an airplane primarily intended for private or corporate use. However, several models of airplanes certificated under part 25 have incorporated fly-by-wire electronic flight control systems.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Dassault Aviation must show that the Model Falcon 7X meets the applicable provisions of Part 14 CFR part 25, as amended by Amendment 25–1 through 25–107.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model Falcon 7X because of a novel or unusual design feature, 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 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, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, 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.

Novel or Unusual Design Features

The Falcon 7X is equipped with an electronic flight control system. In this

system, there is not a direct mechanical link between the airplane flight control surface and the pilot's cockpit control device as there is on more conventional airplanes. Instead, a flight control computer commands the airplane flight control surfaces, based on input received from the cockpit control device. The pilot input is modified by the flight control computer—based on the current airplane flight parameters—before the command is given to the flight control surface.

Discussion

The formulation of airplane design load conditions in 14 CFR part 25 is based on the assumption that the airplane is equipped with a control system in which there is a direct mechanical linkage between the pilot's cockpit control and the control surface. Thus, for roll maneuvers, the regulation specifies a displacement for the aileron itself and does not envision any modification of the pilot's control input. Since such a system will affect the airplane flight loads and thus the structural strength of the airplane, special conditions appropriate for this type of control system are needed.

In particular, the special condition adjusts the design roll maneuver requirements specified in § 25.349(a), so that they take into account the effect of the Falcon 7X's electronic flight control computer on the control surface deflection. The special condition requires that the roll maneuver be performed by deflection of the cockpit roll control, as opposed to specifying a deflection of the aileron itself as the current regulation does. The deflection of the control surface would then be determined from the cockpit input, based on the computer's flight control laws and the current airplane flight parameters.

Applicability

As discussed above, these special conditions are applicable to the Dassault Aviation Model Falcon 7X. 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 feature, the 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 of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable and that good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

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 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 Dassault Aviation Model Falcon 7X airplanes.

Design Roll Maneuvering Conditions

In lieu of compliance with 14 CFR 25.349(a), the following special conditions apply:

Maneuvering: The following conditions, speeds and cockpit roll control motions (except as the motions may be limited by pilot effort) must be considered in combination with an airplane load factor of zero and the two-thirds of limit positive maneuvering load factor. In determining the resulting control surface deflections, the torsional flexibility of the wing must be considered in accordance with 14 CFR 25.301(b):

(1) Conditions corresponding to maximum steady rolling velocities and conditions corresponding to maximum angular accelerations must be investigated. For the angular acceleration conditions, zero rolling velocity may be assumed in the absence of a rational time history investigation of the maneuver.

(2) At V_A, movement of the cockpit roll control up to the limit is assumed. The position of the cockpit roll control must be maintained until a steady roll rate is achieved and then must be returned suddenly to the neutral position.

(3) At V_C, the cockpit roll control must be moved suddenly and maintained so as to achieve a roll rate not less than that obtained in sub-paragraph (2) of this paragraph.

(4) At V_D, the cockpit roll control must be moved suddenly and maintained so as to achieve a roll rate not less than one third of that obtained in sub-paragraph (2) of this paragraph.

Issued in Renton, Washington, on April 4, 2007.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 07–1809 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27824; Directorate Identifier 2003–NE–12–AD; Amendment 39–15026; AD 2006–11–05R1]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is revising an existing airworthiness directive (AD) for Rolls-Royce plc (RR) RB211–22B series, RB211–524B, –524C2, –524D4, –524G2, –524G3, and –524H series, and RB211–535C and –535E series turbofan engines with high pressure compressor (HPC) stage 3 disc assemblies, part numbers (P/Ns) LK46210, LK58278, LK67634, LK76036, UL11706, UL15358, UL22577, UL22578, and UL24738 installed. That AD currently requires removing from service certain disc assemblies before they reach their full published life if not modified with anticorrosion protection. This AD requires the same actions but relaxes the removal compliance time for certain disc assemblies that have a record of detailed inspection. This AD results from the FAA allowing certain affected disc assemblies that entered into service before 1990 that have a record of detailed inspections, to remain in service for a longer period than the previous AD allowed. We are issuing this AD to relax the compliance time for certain disc assemblies and track the disc life based on a detailed inspection rather than by its entry into service date, while continuing to prevent corrosion-induced uncontained disc assembly failure, resulting in damage to the airplane.

DATES: Effective May 1, 2007. The Director of the **Federal Register** previously approved the incorporation by reference of certain publications listed in the regulations as of February 24, 2004 (69 FR 2661, January 20, 2004).

We must receive any comments on this AD by June 15, 2007.

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

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

Contact Rolls-Royce plc, P.O. Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242424; fax: 011–44–1332–245–418, for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803; e-mail: *ian.dargin@faa.gov;* telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On May 15, 2006, the FAA issued AD 2006–11–05, Amendment 39–14609 (71 FR 29586, May 23, 2006). We also issued a correction to that AD on September 26, 2006 (71 FR 58254, October 3, 2006). That AD requires removing from service certain disc assemblies before they reach their full published life if not modified with anticorrosion protection. That AD was the result of the manufacturer's reassessment of the corrosion risk on HPC stage 3 disc assemblies that have not yet been modified with sufficient application of anticorrosion protection. That condition, if not corrected, could result in corrosion-induced uncontained disc assembly failure, resulting in damage to the airplane.

Actions Since AD 2006–11–05 Was Issued

Since AD 2006–11–05 was issued, RR revised an applicable mandatory service bulletin (MSB). That MSB allows affected disc assemblies that entered into service before 1990 that have a record of detailed inspections, to remain in service for 17 years from last overhaul inspection date. But the discs are not to exceed the manufacturer's published cyclic limit in the time limits section of the manual. We are issuing this AD to relax the compliance time for certain disc assemblies and track the disk life based on a detailed inspection rather than by its entry into service date, while continuing to prevent corrosion-induced uncontained disc assembly failure, resulting in damage to the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of RR MSB No. RB.211–72–9661, Revision 5, dated December 22, 2006. That MSB allows affected disc assemblies that entered into service before 1990; and that have a record of detailed inspection:

- To remain in service for 17 years from last overhaul inspection date; but
- Not to exceed the manufacturer's published cyclic limit in the time limits section of the manual.

We do not incorporate by reference this MSB, but we list it under related information.

Bilateral Airworthiness Agreement

This engine model is manufactured in the United Kingdom (UK), and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, the CAA, which is the airworthiness authority for the UK, has kept the FAA informed of the situation described above. We have examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other (RR) RB211–22B series, RB211–524B, –524C2, –524D4, –524G2, –524G3, and –524H series, and RB211–535C and –535E series turbofan engines of the same type design. We are issuing this AD to relax the compliance time for certain disc assemblies and to prevent corrosion-induced uncontained disc assembly failure, resulting in damage to the airplane. This AD requires the following for affected HPC stage 3 rotor disc assemblies:

- Removing affected disc assemblies from service; and
- Re-machining, inspecting, and applying anticorrosion protection; and
- Re-marking, and returning disc assemblies into service; and
- Allowing affected disc assemblies that entered into service before 1990 that have a record of detailed inspection, to remain in service for 17 years from last overhaul inspection date but not to exceed the manufacturer's published cyclic limit in the time limits section of the manual.

You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. FAA–2007–27824; Directorate Identifier 2003–NE–12–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the Docket Management

Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Docket Number Change

We are transferring the docket for this AD to the Docket Management System as part of our on-going docket management consolidation efforts. The new Docket No. is FAA–2007–27824. The old Docket No. became the Directorate Identifier, which is 2003–NE–12–AD. This AD might get logged into the DMS docket, ahead of the previously collected documents from the old docket file, as we are in the process of sending those items to the DMS.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–14609 (71 FR 29586, May 23, 2006) and by adding a new airworthiness directive, Amendment 39–15026, to read as follows:

2006–11–05R1 Rolls-Royce plc: Amendment 39–15026. Docket No. FAA–2007–27824; Directorate Identifier 2003–NE–12–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 1, 2007.

Affected ADs

(b) This AD revises AD 2006–11–05, Amendment 39–14609.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) RB211–22B series, RB211–524B, –524C2, –524D4, –524G2, –524G3, and –524H series, and RB211–535C and –535E series turbofan engines with high pressure compressor (HPC) stage 3 disc assemblies, part numbers (P/Ns) LK46210, LK58278, LK67634, LK76036, UL11706, UL15358, UL22577, UL22578, and UL24738 installed. These engines are installed on, but not limited to, Boeing 747, Boeing 757, Boeing 767, Lockheed L–1011, and Tupolev Tu204 series airplanes.

Unsafe Condition

(d) This AD results from the FAA allowing certain affected disc assemblies that entered into service before 1990 that have a record of detailed inspections, to remain in service for a longer period than the previous AD allowed. We are issuing this AD to relax the compliance time for certain disc assemblies and track the disc life based on a detailed inspection rather than by its entry into service date, while continuing to prevent corrosion-induced uncontained disc assembly failure, resulting in 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.

Removal of HPC Stage 3 Disc Assemblies

(f) Remove from service affected HPC stage 3 disc assemblies identified in the following Table 1, using one of the following criteria:

TABLE 1.—AFFECTED HPC STAGE 3 DISC ASSEMBLIES

Engine model	Rework band for cyclic life accumulated on disc assemblies P/Ns LK46210 and LK58278 (Pre RR Service Bulletin (SB) No. RB.211–72–5420)	Rework band for cyclic life accumulated on disc assembly P/N LK67634 (pre RR SB No. RB.211–72–5420)	Rework band for cyclic life accumulated on P/Ns LK76036, UL11706, UL15358, UL22577, UL22578, and UL24738 disc assemblies (pre RR SB No. RB.211–72–9434)
–22B series	4,000–6,200	7,000–10,000	11,500–14,000
–535E4 series	N/A	N/A	9,000–15,000
–524B–02, B–B–02, B3–02, and B4 series, Pre and Post accomplishment of SB No. 72–7730	4,000–6,000	7,000–9,000	11,500–14,000
–524B2 and C2 series, Pre SB No. 72–7730	4,000–6,000	7,000–9,000	11,500–14,000

TABLE 1.—AFFECTED HPC STAGE 3 DISC ASSEMBLIES—Continued

Engine model	Rework band for cyclic life accumulated on disc assemblies P/Ns LK46210 and LK58278 (Pre RR Service Bulletin (SB) No. RB.211–72–5420)	Rework band for cyclic life accumulated on disc assembly P/N LK67634 (pre RR SB No. RB.211–72–5420)	Rework band for cyclic life accumulated on P/Ns LK76036, UL11706, UL15358, UL22577, UL22578, and UL24738 disc assemblies (pre RR SB No. RB.211–72–9434)
–524B2–B–19 and C2–B–19, SB No. 72–7730	4,000–6,000	7,000–9,000	8,500–11,000
–524D4 series, Pre SB No. 72–7730	4,000–6,000	7,000–9,000	11,500–14,000
–524D4–B series, SB No. 72–7730	4,000–6,000	7,000–9,000	8,500–11,000
–524G2, G3, H, and H2 series	4,000–6,000	7,000–9,000	8,500–11,000

(1) For disc assemblies that entered into service before 1990, remove disc assembly and rework as specified in paragraph (g)(2) of this AD, on or before January 4, 2007, but not to exceed the upper cyclic limit in Table 1 of this AD before rework. Disc assemblies reworked may not exceed the manufacturer's published cyclic limit in the time limits section of the manual.

(2) For disc assemblies that entered into service in 1990 or later, remove disc assembly within the cyclic life rework bands in Table 1 of this AD, or within 17 years after the date of the disc assembly entering into service, whichever is sooner, but not to exceed the upper cyclic limit of Table 1 of this AD before rework. Disc assemblies reworked may not exceed the manufacturer's published cyclic limit in the time limits section of the manual.

(3) For disc assemblies that when new, were modified with an application of anticorrosion protection and re-marked to P/N LK76036 (not previously machined) as specified by Part 1 of the original issue of RR service bulletin (SB) No. RB.211–72–5420, dated April 20, 1979, remove RB211–22B disc assemblies before accumulating 10,000 cycles-in-service (CIS), and remove RB211–524 disc assemblies before accumulating 9,000 CIS.

(4) If the disc assembly date of entry into service cannot be determined, the date of disc assembly manufacture may be obtained from RR and used instead.

(5) Disc assemblies in RB211–535C operation are unaffected by the interim rework cyclic band limits in Table 1 of this AD, but must meet the calendar life requirements of either paragraph (f)(1) or (f)(2) of this AD, as applicable.

Optional Rework of HPC Stage 3 Disc Assemblies

(g) Rework HPC stage 3 disc assemblies that were removed in paragraph (f) of this AD as follows:

(1) For disc assemblies that when new, were modified with an application of anticorrosion protection and re-marked to P/N LK76036 (not previously machined) as specified by Part 1 of the original issue of RR SB RB.211–72–5420, dated April 20, 1979, rework disc assemblies and re-mark to either LK76034 or LK78814 using paragraph 2.B. of the Accomplishment Instructions of RR SB No. RB.211–72–5420, Revision 4, dated February 29, 1980. This rework constitutes terminating action to the removal requirements in paragraph (f) of this AD.

(2) For all other disc assemblies, rework using Paragraph 3.B. of the Accomplishment Instructions of RR SB No. RB.211–72–9434, Revision 4, dated January 12, 2000. This rework constitutes terminating action to the removal requirements in paragraph (f) of this AD.

(3) If rework is done on disc assemblies that are removed before the disc assembly reaches the lower life of the cyclic life rework band in Table 1 of this AD, artificial aging of the disc assembly to the lower life of the rework band, at time of rework, is required.

(4) Disc assemblies that entered into service before 1990 that have a record of detailed inspection are allowed to remain in service for 17 years from last overhaul inspection date but not to exceed the manufacturer's published cyclic limit in the time limits section of the manual.

Alternative Methods of Compliance

(h) 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

(i) Civil Aviation Authority airworthiness directive 004–01–94, dated January 4, 2002, and RR Mandatory Service Bulletin No. RB.211–72–9661, Revision 5, dated December 22, 2006, pertain to the subject of this AD.

Material Incorporated by Reference

(j) You must use Rolls-Royce plc Service Bulletin No. RB.211–72–5420, Revision 4, dated February 29, 1980, and Rolls-Royce plc Service Bulletin No. RB.211–72–9434, Revision 4, dated January 12, 2000, to perform the rework required by this AD. The Director of the Federal Register previously approved the incorporation by reference of these service bulletins in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of February 24, 2004 (69 FR 2661, January 20, 2004). You can get copies from Rolls-Royce plc, P.O. Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242424; fax: 011–44–1332–245–418. You can review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; 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.*

(k) Contact Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *ian.dargin@faa.gov;* telephone (781) 238–7178; fax (781) 238–7199, for more information about this AD.

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

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E7–7032 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30545; Amdt. No. 3214]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic

requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective April 16, 2007. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 16, 2007.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs and Weather Takeoff Minimums mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

SUPPLEMENTARY INFORMATION: This amendment to Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs and/or Weather Takeoff Minimums but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP and/or Weather Takeoff Minimums contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs and/or Weather Takeoff Minimums. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on April 6, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 10 May 2007

Bessemer, AL, Bessemer, ILS OR LOC RWY 5, Amdt 1
El Dorado, AR, South Arkansas Regional at Goodwin Field, ILS OR LOC RWY 22, Amdt 1
Little Rock, AR, Adams Field, RADAR–1, Amdt 17
Los Angeles, CA, Los Angeles Intl, ILS OR LOC RWY 7L, Amdt 6
Los Angeles, CA, Los Angeles Intl, ILS OR LOC RWY 7R, Amdt 5
Los Angeles, CA, Los Angeles Intl, RNAV (GPS) RWY 7L, Amdt 1
Los Angeles, CA, Los Angeles Intl, RNAV (GPS) RWY 7R, Amdt 1
Los Angeles, CA, Los Angeles Intl, Takeoff Minimums and Textual DP, Amdt 11
San Bernardino, CA, San Bernardino International, LOC Y RWY 6, Orig
San Bernardino, CA, San Bernardino International, ILS OR LOC Z RWY 6, Amdt 2
Wilmington, DE, New Castle, ILS OR LOC RWY 1, Amdt 21
West Palm Beach, FL, Palm Beach Intl, ILS OR LOC RWY 9L, Amdt 24
Thomasville, GA, Thomasville Regional, Takeoff Minimums and Obstacle DP, Amdt 1
Phillipsburg, KS, Phillipsburg Muni, NDB–A, Amdt 1
Lafayette, LA, Lafayette Regional, RNAV (GPS) RWY 4R, Orig
Lafayette, LA, Lafayette Regional, RNAV (GPS) RWY 22L, Orig
Lafayette, LA, Lafayette Regional, ILS OR LOC/DME RWY 4R, Amdt 1
Lafayette, LA, Lafayette Regional, VOR RWY 4R, Amdt 2
New Orleans, LA, Louis Armstrong New Orleans Intl, Takeoff Minimums and Obstacle DP, Amdt 1
Shreveport, LA, Shreveport Regional, Takeoff Minimums and Textual DP, Orig
Friendly, MD, Potomac Airfield, VOR/DME RWY 6, Orig, CANCELLED
Friendly, MD, Potomac Airfield, RNAV (GPS) RWY 6, Orig
Friendly, MD, Potomac Airfield, GPS RWY 6, Orig, CANCELLED
Boonville, MO, Jesse Viertel Memorial, RNAV (GPS) RWY 18, Orig
Boonville, MO, Jesse Viertel Memorial, GPS RWY 18, Orig, CANCELLED
Boonville, MO, Jesse Viertel Memorial, RNAV (GPS) RWY 36, Orig
Boonville, MO, Jesse Viertel Memorial, GPS RWY 36, Orig, CANCELLED
Boonville, MO, Jesse Viertel Memorial, VOR–A, Amdt 5
Boonville, MO, Jesse Viertel Memorial, Takeoff Minimums and Textual DP, Orig
Fulton, MO, Elton Hensley Memorial, NDB RWY 5, Amdt 1B, CANCELLED
Fulton, MO, Elton Hensley Memorial, NDB OR GPS RWY 23, Amdt 1A, CANCELLED
Kansas City, MO, Kansas City Intl, ILS OR LOC RWY 9, Amdt 12
Warrensburg, MO, Skyhaven, VOR/DME RNAV OR GPS RWY 18, Amdt 1, CANCELLED
Warrensburg, MO, Skyhaven, VOR/DME–A, Amdt 2
Warrensburg, MO, Skyhaven, RNAV (GPS) RWY 18, Orig
Warrensburg, MO, Skyhaven, RNAV (GPS) RWY 36, Orig
Warrensburg, MO, Skyhaven, GPS RWY 36, Orig, CANCELLED
Warrensburg, MO, Skyhaven, Takeoff Minimums and Textual DP, Amdt 1
Clinton, NC, Sampson County, RNAV (GPS) RWY 6, Amdt 1
Clinton, NC, Sampson County, LOC RWY 6, Amdt 2
Clinton, NC, Sampson County, Takeoff Minimums and Obstacle DP, Orig
Edenton, NC, Northeastern Rgnl, LOC RWY 19, Orig
Wilmington, NC, Wilmington Intl, ILS OR LOC/DME RWY 6, Orig
Wilmington, NC, Wilmington Intl, ILS OR LOC RWY 24, Orig
Wilmington, NC, Wilmington Intl, Takeoff Minimums and Obstacle DP, Amdt 1
Goldsboro, NC, Goldsboro-Wayne Muni, Takeoff Minimums and Textual DP, Amdt 1
Fremont, NE, Fremont Muni, RNAV (GPS) RWY 13, Orig
Fremont, NE, Fremont Muni, GPS RWY 13, Orig-B, CANCELLED
Newark, NJ, Newark Liberty Intl, RNAV (RNP) Y RWY 22L, Orig-B
Silver City, NM, Grant County, LOC/DME RWY 26, Amdt 5
Shirley, NY, Brookhaven, RNAV (GPS) RWY 15, Orig
Shirley, NY, Brookhaven, RNAV (GPS) Y RWY 24, Amdt 1
Shirley, NY, Brookhaven, RNAV (GPS) Z RWY 24, Orig
Norman, OK, University of Oklahoma Westheimer, ILS OR LOC RWY 17, Orig-A
Allentown, PA, Lehigh Valley Intl, TACAN–C, Orig
Charleston, SC, Charleston AFB/INTL, Radar-1, Amdt 17, CANCELLED
Dallas, TX, Addison, ILS OR LOC RWY 15, Amdt 11
Dallas, TX, Addison, ILS OR LOC RWY 33, Amdt 3
Dallas, TX, Addison, RNAV (GPS) RWY 15, Amdt 1
Dallas, TX, Addison, RNAV (GPS) RWY 33, Amdt 1
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, CONVERGING ILS RWY 13R, Amdt 6
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, CONVERGING ILS RWY 31R, Amdt 7
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, ILS OR LOC RWY 13R, Amdt 7
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, ILS OR LOC RWY 31R, Amdt 13
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, RNAV (GPS) Y RWY 13R, Amdt 1
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, RNAV (GPS) Y RWY 31R, Amdt 1
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, RNAV (GPS) Y RWY 31L, Orig
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, RNAV (RNP) Z RWY 13R, Orig
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, RNAV (RNP) Z RWY 31L, Orig
Dallas-Fort Worth, TX, Dallas Fort Worth Intl, RNAV (RNP) Z RWY 31R, Orig
Houston, TX, David Wayne Hooks Memorial, RNAV (GPS) RWY 17R, Amdt 1
Houston, TX, David Wayne Hooks Memorial, RNAV (GPS) RWY 35L, Amdt 1
Houston, TX, Houston-Southwest, RNAV (GPS) RWY 9, Amdt 2
Houston, TX, Houston-Southwest, RNAV (GPS) RWY 27, Amdt 1
Lynchburg, VA, Falwell, Takeoff Minimums and Textual DP, Orig

Effective 05 July 2007

Birmingham, AL, Birmingham Intl, RADAR–1, Amdt 19B, CANCELLED
La Porte, IN, La Porte Muni, RNAV (GPS) RWY 2, Orig
La Porte, IN, La Porte Muni, RNAV (GPS) RWY 20, Orig
La Porte, IN, La Porte Muni, LOC/NDB RWY 2, Amdt 1
La Porte, IN, La Porte Muni, VOR–A, Amdt 7
La Porte, IN, La Porte Muni, GPS RWY 2, Orig-B, CANCELLED
La Porte, IN, La Porte Muni, VOR/DME RNAV OR GPS RWY 20, Amdt 5, CANCELLED
La Porte, IN, La Porte Muni, Takeoff Minimums and Obstacle Departure Procedures, Amdt 2

The FAA published a Cancellation in Docket No. 30543 Amdt No. 3212 to Part 97 of the Federal Aviation Regulations (Vol 72, FR No. 63, page 15827, dated April 3, 2007) Under Section 97.23 effective 10 May 2007, which is hereby rescinded:

Marysville, CA, Yuba County, VOR RWY 32, Amdt 10D, CANCELLED

The FAA published an Original in Docket No. 30543 Amdt No. 3212 to Part 97 of the Federal Aviation Regulations (Vol 72, FR No. 63, page 15827, dated April 3, 2007) under Section 97.33 effective 10 May 2007 which is hereby rescinded:

Middlesboro, KY, Middlesboro-Bell County, RNAV (GPS)–A, Orig

[FR Doc. E7–7063 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30546; Amdt. No. 3215]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under

instrument flight rules at the affected airports.

DATES: This rule is effective April 16, 2007. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 16, 2007.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave., SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or,

4. 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/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

SUPPLEMENTARY INFORMATION: This amendment to Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on April 6, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, LDA w/GS, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, MLS, TLS, GLS, WAAS PA, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; § 97.35 COPTER SIAPs, § 97.37 Takeoff Minima and Obstacle Departure Procedures. Identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
03/21/07	MN	WARROAD	WARROAD INTL—SWEDE CARLSON FIELD.	7/5383	ILS RWY 31, AMDT 1.
03/26/07	SC	BEAUFORT	BEAUFORT COUNTY	7/6551	RADAR–1, AMDT 3.
03/29/07	CA	LONG BEACH	LONG BEACH/DAUGHERTY FIELD	7/6572	RNAV (RNP) RWY 12, ORIG.
04/05/07	FL	TAMPA	TAMPA INTL	7/7163	RNAV (RNP) Y RWY 18L, ORIG–B.
04/05/07	FL	FORT LAUDERDALE.	FORT LAUDERDALE/HOLLYWOOD INTL.	7/7165	RNAV (RNP) Z RWY 9R, ORIG–A.
04/05/07	FL	FORT LAUDERDALE.	FORT LAUDERDALE/HOLLYWOOD INTL.	7/7166	RNAV (RNP) Y RWY 9L, ORIG–A.
04/05/07	SC	BARNWELL	BARNWELL COUNTY	7/7240	TAKEOFF MINIMUMS AND OBSTACLE DP, AMDT 1.
05/04/07	FL	FORT LAUDERDALE.	FORT LAUDERDALE/HOLLYWOOD INTL.	7/7164	RNAV (RNP) Z RWY 27R, ORIG–A.

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DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Parts 19, 21 and 22

[Docket Number: 070216039–7040–01]

RIN: 0605–AA24

Commerce Debt Collection

AGENCY: Office of the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the Department of Commerce (Commerce Department or Commerce) debt collection regulations to conform to the Debt Collection Improvement Act of 1996, the revised Federal Claims Collection Standards, and other laws applicable to the collection of non-tax debts owed to the Commerce Department. This rule also revises Commerce's regulations governing the offset of Commerce-issued payments to collect debts owed to other Federal agencies.

DATES: This rule is effective May 16, 2007; comments must be received on or before May 16, 2007.

ADDRESSES: Send comments to the Deputy Chief Financial Officer, Office of Financial Management, Department of Commerce, 1401 Constitution Avenue, NW., Room 6827, Washington, DC 20230. Comments also may be submitted by electronic mail to *OFMOffice@doc.gov*.

FOR FURTHER INFORMATION CONTACT: Lisa Casias, Deputy Chief Financial Officer and Director for Financial Management, Office of Financial Management, at (202) 482–1207, Department of Commerce, 1401 Constitution Avenue, NW., Room 6827, Washington, DC 20230. This document is available for downloading from the Department of Commerce, Office of Financial Management's Web site at the following address: *http://osec.doc.gov/ofm/OFM%20Publications.htm.*

SUPPLEMENTARY INFORMATION:

Background

This rule revises and replaces Department of Commerce (Commerce Department or Commerce) debt collection regulations found at 15 CFR Parts 19, 21 and 22 to conform to the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321, 1358 (Apr. 26, 1996), the revised Federal Claims Collection Standards, 31 CFR Chapter IX (Parts 900 through 904), and other laws applicable to the collection of non-tax debt owed to the Government.

This regulation provides procedures for the collection of non-tax debts owed to Commerce Department entities. Commerce adopts the Government-wide debt collection standards promulgated by the Departments of the Treasury and Justice, known as the Federal Claims Collection Standards (FCCS), as revised on November 22, 2000 (65 FR 70390), and supplements the FCCS by prescribing procedures consistent with the FCCS, as necessary and appropriate for Commerce operations. This regulation also provides the procedures for the collection of debts owed to other Federal agencies when a request for offset is received by Commerce.

This regulation does not apply to the collection of tax debts, which is governed by the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) and regulations, policies and procedures issued by the Internal Revenue Service.

This regulation does not contain a section regarding the delegation of debt collection authority within the Commerce Department. The delegation is contained in the Department of Commerce Credit and Debt Management Operating Procedures Handbook (currently available at *http://www.osec.doc.gov/ofm/credit/cover.htm*), and does not need to be included in the revised regulation.

Nothing in this regulation precludes the use of collection remedies not contained in this regulation. For example, Commerce entities may collect unused travel advances through setoff of an employee's pay under 5 U.S.C. 5705. Commerce entities and other Federal agencies may simultaneously use multiple collection remedies to collect a debt, except as prohibited by law.

Commerce entities may, but are not required to, promulgate additional policies and procedures consistent with this regulation, the FCCS, and other applicable Federal laws, policies, and procedures, subject to the approval of the Deputy Chief Financial Officer.

Section Analysis

Subpart A—Sections 19.1 Through 19.3

Subpart A of this regulation addresses the general provisions applicable to the collection of non-tax debts owed to Commerce, including to offices and bureaus (collectively referred to as Commerce entities). Commerce offices currently include the Office of the Secretary of Commerce, and the Office of Inspector General. Commerce bureaus currently include the Bureau of Industry and Security, the Economics and Statistics Administration (including the Bureau of Economic Analysis, and the Bureau of the Census), the Economic Development Administration, the International Trade Administration, the Minority Business Development Agency, the National Oceanic and Atmospheric Administration, the National Telecommunications and Information Administration, the U.S. Patent and Trademark Office, and the Technology Administration (including the National Institute of Standards and Technology, and the National Technical Information Service).

As stated in Section 19.2 of this interim final rule, nothing in this regulation requires a Commerce entity to duplicate notices or administrative proceedings required by contract, this regulation or other laws or regulations, including but not limited to financial assistance awards or related regulations (including those relating to grants, cooperative agreements, loans or loan guarantees). Thus, for example, a Commerce entity is not required to provide a debtor with two hearings on the same issue merely because the entity uses two different collection tools, each of which requires that the debtor be provided with a hearing.

Subpart B—Sections 19.4 Through 19.19

Subpart B of this regulation describes the procedures to be followed by Commerce entities when collecting debts owed to the Commerce Department. Among other things, subpart B outlines the due process procedures Commerce entities are required to follow when using offset (administrative, tax refund and salary) to collect a Commerce debt, when garnishing a debtor's wages, or before reporting a Commerce debt to a credit bureau. Specifically, Commerce entities are required to provide debtors with notice of the amount and type of Commerce debt, the intended collection action to be taken, how a debtor may pay the Commerce debt or make alternate repayment arrangements, how a debtor may review documents related to the Commerce debt, how a debtor may dispute the Commerce debt, and the consequences to the debtor if the Commerce debt is not paid. This regulation does not require Commerce entities to send notices by certified mail. The Commerce Department has determined that the certified mail requirement imposes an unnecessary administrative burden and expense. Notices may be sent by first-class mail, and if not returned by the United States Postal Service, Commerce entities may presume that the notice was received. See *Rosenthal* v. *Walker*, 111 U.S. 185 (1884); *Mahon* v. *Credit Bureau of Placer County Incorporated*, 171 F.3d 1197 (9th Cir. 1999). Nothing in these regulations precludes the use of other forms of delivery of notice which are either required by statute or contract or are intended to effect prompt delivery of the notice under appropriate circumstances, including the use of certified mail, express mail or hand delivery.

Subpart B also explains the circumstances under which Commerce entities may waive interest, penalties and administrative costs.

This regulation updates Commerce Department procedures to reflect changes required by the DCIA. For example, the DCIA centralized the use of offset by requiring agencies to refer debts delinquent more than 180 days to the Financial Management Service for offset. See 31 U.S.C. 3716(c)(6). The Financial Management Service disburses millions of Federal payments annually and is required to offset payments to persons who owe delinquent debts to the Government. Prior to the DCIA, agencies were required to contact the particular agency issuing a payment in order to initiate the offset of a Federal payment. This regulation also incorporates procedures for several collection remedies authorized by the DCIA, such as administrative wage garnishment and barring delinquent debtors from obtaining additional Federal loan assistance.

This regulation does not specify the dollar threshold for which legal approval of compromises or suspension or termination of debt collection activity is required. This information is contained in the Department of Commerce Credit and Debt Management Operating Procedures Handbook (currently located at *http://www.osec.doc.gov/ofm/credit/cover.htm*).

Subpart C—Sections 19.20 and 19.21

Subpart C of this regulation describes the procedures to be followed when a Federal agency, other than a Commerce entity, would like to use the offset process to collect a debt from a non-tax payment issued by the Commerce Department as a payment agency. This is distinguished from the offset of payments disbursed by the Treasury Department's Financial Management Service in its capacity as disbursing agency for the Federal Government. The offset of payments disbursed by the Financial Management Service, including tax refund payments issued by the Internal Revenue Service and social security benefit payments issued by the Social Security Administration, is conducted through the Treasury Offset Program and is governed by regulations found at 31 CFR part 285, as well as agency-specific regulations. Subpart C of this regulation governs the process for offsets that occur on an *ad hoc*, case-by-case basis to collect debts from payments made by the Commerce Department to its employees, its vendors, its financial assistance award recipients (including recipients of grants, cooperative agreements, loans or loan guarantees), and others to whom the Commerce Department is required or authorized to pay. While centralized offset through the Treasury Offset Program is the Government's primary offset collection tool, this regulation provides the procedures to be used when centralized offset is otherwise not available or appropriate. An agency's use of the non-centralized administrative offset process shall not provide grounds to invalidate any offset on the basis that centralized offset was not used.

Regulatory Analysis

E.O. 12866, Regulatory Review

This rule is not a significant regulatory action as defined in Executive Order 12866.

Administrative Procedure Act

The Commerce Department is promulgating this interim final rule without prior notice and opportunity for public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (APA) because this rule is exempt under 5 U.S.C. 553(a)(2). This regulation provides procedures for the collection of non-tax debts owed to Commerce Department entities. Commerce adopts the Government-wide debt collection standards promulgated by the Departments of the Treasury and Justice, known as the Federal Claims Collection Standards (FCCS), as revised on November 22, 2000 (65 FR 70390), and supplements the FCCS by prescribing procedures consistent with the FCCS, as necessary and appropriate for Commerce operations. This regulation also provides the procedures for the collection of debts owed to other Federal agencies when a request for offset is received by Commerce. Although prior notice of this rulemaking and opportunity for public comment are not required under the APA (see 5 U.S.C. 553(b)), the public is invited to submit comments on the interim final rule.

Regulatory Flexibility Act

Because notice of proposed rulemaking and opportunity for comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility act (5 U.S.C. 601, *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

List of Subjects in 15 CFR Part 19

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Government employee, Hearing and appeal procedures, Pay administration, Salaries, Wages.

Authority and Issuance

For the reasons set forth in the preamble, and under the authority of 31 U.S.C. 3701, *et seq.*, the Commerce Department amends 15 CFR subtitle A as follows:

■ 1. Part 19 is revised to read as follows:

PART 19—COMMERCE DEBT COLLECTION

Subpart A—General Provisions

Sec.
19.1 What definitions apply to the regulations in this Part?
19.2 Why has the Commerce Department issuing these regulations and what do they cover?
19.3 Do these regulations adopt the Federal Claims Collection Standards (FCCS)?

Subpart B—Procedures to Collect Commerce Debts

19.4 What notice will Commerce entities send to a debtor when collecting a Commerce debt?
19.5 How will Commerce entities add interest, penalty charges, and administrative costs to a Commerce debt?
19.6 When will Commerce entities allow a debtor to pay a Commerce debt in installments instead of one lump sum?
19.7 When will Commerce entities compromise a Commerce debt?
19.8 When will Commerce entities suspend or terminate debt collection on a Commerce debt?
19.9 When will Commerce entities transfer a Commerce debt to the Treasury Department's Financial Management Service for collection?
19.10 How will Commerce entities use administrative offset (offset of non-tax Federal payments) to collect a Commerce debt?
19.11 How will Commerce entities use tax refund offset to collect a Commerce debt?
19.12 How will Commerce entities offset a Federal employee's salary to collect a Commerce debt?
19.13 How will Commerce entities use administrative wage garnishment to collect a Commerce debt from a debtor's wages?
19.14 How will Commerce entities report Commerce debts to credit bureaus?
19.15 How will Commerce entities refer Commerce debts to private collection agencies?
19.16 When will Commerce entities refer Commerce debts to the Department of Justice?
19.17 Will a debtor who owes a Commerce or other Federal agency debt, and persons controlled by or controlling such debtors, be ineligible for Federal loan assistance, grants, cooperative agreements, or other sources of Federal funds or for Federal licenses, permits or privileges?
19.18 How does a debtor request a special review based on a change in circumstances such as catastrophic illness, divorce, death, or disability?
19.19 Will Commerce entities issue a refund if money is erroneously collected on a Commerce debt?

Subpart C—Procedures for Offset of Commerce Department Payments to Collect Debts Owed to Other Federal Agencies

19.20 How do other Federal agencies use the offset process to collect debts from payments issued by a Commerce entity?
19.21 What does a Commerce entity do upon receipt of a request to offset the salary of a Commerce entity employee to collect a debt owed by the employee to another Federal agency?

Authority: 31 U.S.C. 3701, *et seq.*

Subpart A—General Provisions

§ 19.1 What definitions apply to the regulations in this Part?

As used in this Part:

Administrative offset or *offset* means withholding funds payable by the United States (including funds payable by the United States on behalf of a state government) to, or held by the United States for, a person to satisfy a debt owed by the person. The term ''administrative offset'' can include, but is not limited to, the offset of Federal salary, vendor, retirement, and Social Security benefit payments. The terms ''centralized administrative offset'' and ''centralized offset'' refer to the process by which the Treasury Department's Financial Management Service offsets Federal payments through the Treasury Offset Program.

Administrative wage garnishment means the process by which a Federal agency orders a non-Federal employer to withhold amounts from a debtor's wages to satisfy a debt, as authorized by 31 U.S.C. 3720D, 31 CFR 285.11, and this Part.

Agency or *Federal agency* means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal Government, including government corporations.

Commerce debt means a debt owed to a Commerce entity by a person.

Commerce Department means the United States Department of Commerce.

Commerce entity means a component of the Commerce Department, including offices or bureaus. Commerce offices currently include the Office of the Secretary of Commerce, and the Office of Inspector General. Commerce bureaus currently include the Bureau of Industry and Security, the Economics and Statistics Administration (including the Bureau of Economic Analysis, and the Bureau of the Census), the Economic Development Administration, the International Trade Administration, the Minority Business Development Agency, the National Oceanic and Atmospheric Administration, the National Telecommunications and Information Administration, the U.S. Patent and Trademark Office, and the Technology Administration (including the National Institute of Standards and Technology, and the National Technical Information Service).

Creditor agency means any Federal agency that is owed a debt.

Day means calendar day except when express reference is made to business day, which reference shall mean Monday through Friday. For purposes of time computation, the last day of the period provided will be included in the calculation unless that day is a Saturday, a Sunday, or a Federal legal holiday; in which case, the next business day will be included.

Debt means any amount of money, funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person. As used in this Part, the term ''debt'' can include a Commerce debt but does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*).

Debtor means a person who owes a debt to the United States.

Delinquent debt means a debt that has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made.

Delinquent Commerce debt means a delinquent debt owed to a Commerce entity.

Disposable pay has the same meaning as that term is defined in 5 CFR 550.1103.

Employee or *Federal employee* means a current employee of the Commerce Department or other Federal agency, including a current member of the uniformed services, including the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service, including the National Guard and the reserve forces of the uniformed services.

FCCS means the Federal Claims Collection Standards, which were jointly published by the Departments of the Treasury and Justice and codified at 31 CFR Parts 900–904.

Financial Management Service means the Financial Management Service, a bureau of the Treasury Department, which is responsible for the centralized collection of delinquent debts through

the offset of Federal payments and other means.

Payment agency or *Federal payment agency* means any Federal agency that transmits payment requests in the form of certified payment vouchers, or other similar forms, to a disbursing official for disbursement. The payment agency may be the agency that employs the debtor. In some cases, the Commerce Department may be both the creditor agency and payment agency.

Person means an individual, corporation, partnership, association, organization, State or local government or any other type of entity other than a Federal agency.

Salary offset means a type of administrative offset to collect a debt under 5 CFR 5514 by deductions(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

Secretary means the Secretary of Commerce.

Tax refund offset is defined in 31 CFR 285.2(a).

§ 19.2 Why has the Commerce Department issuing these regulations and what do they cover?

(a) *Scope.* This Part provides procedures for the collection of Commerce debts. This Part also provides procedures for collection of other debts owed to the United States when a request for offset of a payment for which Commerce is the payment agency is received by the Commerce Department from another agency (for example, when a Commerce Department employee owes a debt to the United States Department of Education).

(b) *Applicability.* (1) This Part applies to the Commerce Department when collecting a Commerce debt, to persons who owe Commerce debts, to persons controlled by or controlling persons who owe Federal agency debts, and to Federal agencies requesting offset of a payment issued by the Commerce Department as a payment agency (including salary payments to Commerce Department employees).

(2) This Part does not apply to tax debts nor to any debt for which there is an indication of fraud or misrepresentation, as described in § 900.3 of the FCCS, unless the debt is returned by the Department of Justice to the Commerce Department for handling.

(3) Nothing in this Part precludes collection or disposition of any debt under statutes and regulations other than those described in this Part. See, for example, 5 U.S.C. 5705, Advancements and Deductions, which authorizes Commerce entities to recover travel advances by offset of up to 100% of a Federal employee's accrued pay. See, also, 5 U.S.C. 4108, governing the collection of training expenses. To the extent that the provisions of laws, other regulations, and Commerce Department enforcement policies differ from the provisions of this Part, those provisions of law, other regulations, and Commerce Department enforcement policies apply to the remission or mitigation of fines, penalties, and forfeitures, and to debts arising under the tariff laws of the United States, rather than the provisions of this Part.

(c) *Additional policies and procedures.* Commerce entities may, but are not required to, promulgate additional policies and procedures consistent with this Part, the FCCS, and other applicable Federal law, policies, and procedures, subject to the approval of Deputy Chief Financial Officer.

(d) *Duplication not required.* Nothing in this Part requires a Commerce entity to duplicate notices or administrative proceedings required by contract, this Part, or other laws or regulations, including but not limited to those required by financial assistance awards such as grants, cooperative agreements, loans or loan guarantees.

(e) *Use of multiple collection remedies allowed.* Commerce entities and other Federal agencies may simultaneously use multiple collection remedies to collect a debt, except as prohibited by law. This Part is intended to promote aggressive debt collection, using for each debt all available and appropriate collection remedies. These remedies are not listed in any prescribed order to provide Commerce entities with flexibility in determining which remedies will be most efficient in collecting the particular debt.

(f) All citations in this Part, such as to statutes, regulations and the Department of Commerce Credit and Debt Management Operating Procedures Handbook, are intended to be references to cited sources as each currently stands and as each may be amended from time to time.

§ 19.3 Do these regulations adopt the Federal Claims Collection Standards (FCCS)?

This Part adopts and incorporates all provisions of the FCCS. This Part also supplements the FCCS by prescribing procedures consistent with the FCCS, as necessary and appropriate for Commerce Department operations.

Subpart B—Procedures to Collect Commerce Debts

§ 19.4 What notice will Commerce entities send to a debtor when collecting a Commerce debt?

(a) *Notice requirements.* Commerce entities shall aggressively collect Commerce debts. Commerce entities shall promptly send at least one written notice to a debtor informing the debtor of the consequences of failing to pay or otherwise resolve a Commerce debt. The notice(s) shall be sent to the debtor at the most current address of the debtor in the records of the Commerce entity collecting the Commerce debt. Generally, before starting the collection actions described in §§ 19.5 and 19.9 through 19.17 of this Part, Commerce entities will send no more than two written notices to the debtor. The notice(s) explain why the Commerce debt is owed, the amount of the Commerce debt, how a debtor may pay the Commerce debt or make alternate repayment arrangements, how a debtor may review non-privileged documents related to the Commerce debt, how a debtor may dispute the Commerce debt, the collection remedies available to Commerce entities if the debtor refuses or otherwise fails to pay the Commerce debt, and other consequences to the debtor if the Commerce debt is not paid. Except as otherwise provided in paragraph (b) of this section, the written notice(s) shall explain to the debtor:

(1) The nature and amount of the Commerce debt, and the facts giving rise to the Commerce debt;

(2) How interest, penalties, and administrative costs are added to the Commerce debt, the date by which payment should be made to avoid such charges, and that such assessments must be made unless excused in accordance with 31 CFR 901.9 (see § 19.5 of this Part);

(3) The date by which payment should be made to avoid the enforced collection actions described in paragraph (a)(6) of this section;

(4) The Commerce entity's willingness to discuss alternative payment arrangements and how the debtor may enter into a written agreement to repay the Commerce debt under terms acceptable to the Commerce entity (see § 19.6 of this Part);

(5) The name, address, and telephone number of a contact person or office within the Commerce entity;

(6) The Commerce entity's intention to enforce collection by taking one or more of the following actions if the debtor fails to pay or otherwise resolve the Commerce debt:

(i) *Offset.* Offset the debtor's Federal payments, including income tax refunds, salary, certain benefit payments (such as Social Security), retirement, vendor, travel reimbursements and advances, and other Federal payments (see §§ 19.10 through 19.12 of this Part);

(ii) *Private collection agency.* Refer the Commerce debt to a private collection agency (see § 19.15 of this Part);

(iii) *Credit bureau reporting.* Report the Commerce debt to a credit bureau (see § 19.14 of this Part);

(iv) *Administrative wage garnishment.* Garnish the individual debtor's wages through administrative wage garnishment (see § 19.13 of this Part);

(v) *Litigation.* Refer the Commerce debt to the Department of Justice to initiate litigation to collect the Commerce debt (see § 19.16 of this Part);

(vi) *Treasury Department's Financial Management Service.* Refer the Commerce debt to the Financial Management Service for collection (see § 19.9 of this Part);

(7) That Commerce debts over 180 days delinquent must be referred to the Financial Management Service for the collection actions described in paragraph (a)(6) of this section (see § 19.9 of this Part);

(8) How the debtor may inspect and copy non-privileged records related to the Commerce debt;

(9) How the debtor may request a review of the Commerce entity's determination that the debtor owes a Commerce debt and present evidence that the Commerce debt is not delinquent or legally enforceable (see §§ 19.10(c) and 19.11(c) of this Part);

(10) How a debtor who is an individual may request a hearing if the Commerce entity intends to garnish the debtor's private sector (i.e., non-Federal) wages (see § 19.13(a) of this Part), including:

(i) The method and time period for requesting a hearing;

(ii) That a request for a hearing, timely filed on or before the 15th business day following the date of the mailing of the notice, will stay the commencement of administrative wage garnishment, but not other collection procedures; and

(iii) The name and address of the office to which the request for a hearing should be sent.

(11) How a debtor who is an individual and a Federal employee subject to Federal salary offset may request a hearing (see § 19.12(e) of this Part), including:

(i) The method and time period for requesting a hearing;

(ii) That a request for a hearing, timely filed on or before the 15th day following receipt of the notice, will stay the commencement of salary offset, but not other collection procedures;

(iii) The name and address of the office to which the request for a hearing should be sent;

(iv) That the Commerce entity will refer the Commerce debt to the debtor's employing agency or to the Financial Management Service to implement salary offset, unless the employee files a timely request for a hearing;

(v) That a final decision on the hearing, if requested, will be issued at the earliest practical date, but not later than 60 days after the filing of the request for a hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(vi) That any knowingly false or frivolous statements, representations, or evidence may subject the Federal employee to penalties under the False Claims Act (31 U.S.C. 3729–3731) or other applicable statutory authority, and criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or other applicable statutory authority;

(vii) That unless prohibited by contract or statute, amounts paid on or deducted for the Commerce debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(viii) That proceedings with respect to such Commerce debt are governed by 5 U.S.C. 5514 and 31 U.S.C. 3716.

(12) How the debtor may request a waiver of the Commerce debt, if applicable. See, for example, § 19.5 and § 19.12(f) of this Part.

(13) How the debtor's spouse may claim his or her share of a joint income tax refund by filing Form 8379 with the Internal Revenue Service (see *http://www.irs.gov*);

(14) How the debtor may exercise other rights and remedies, if any, available to the debtor under programmatic statutory or regulatory authority under which the Commerce debt arose.

(15) That certain debtors and, if applicable, persons controlled by or controlling such debtors, may be ineligible for Federal Government loans, guaranties and insurance, grants, cooperative agreements or other sources of Federal funds (see 28 U.S.C. 3201(e); 31 U.S.C. 3720B, 31 CFR 285.13, and § 19.17(a) of this Part);

(16) If applicable, the Commerce entity's intention to deny, suspend or revoke licenses, permits or privileges (see § 19.17(b) of this Part); and

(17) That the debtor should advise the Commerce entity of a bankruptcy proceeding of the debtor or another person liable for the Commerce debt being collected.

(b) *Exceptions to notice requirements.* A Commerce entity may omit from a notice to a debtor one or more of the provisions contained in paragraphs (a)(6) through (a)(17) of this section if the Commerce entity, in consultation with its legal counsel, determines that any provision is not legally required given the collection remedies to be applied to a particular Commerce debt.

(c) *Respond to debtors; comply with FCCS.* Commerce entities should respond promptly to communications from debtors and comply with other FCCS provisions applicable to the administrative collection of debts. See 31 CFR part 901.

§ 19.5 How will Commerce entities add interest, penalty charges, and administrative costs to a Commerce debt?

(a) *Assessment and notice.* Commerce entities shall assess interest, penalties and administrative costs on Commerce debts in accordance with the provisions of 31 U.S.C. 3717 and 31 CFR 901.9. Interest shall be charged in accordance with the requirements of 31 U.S.C. 3717(a). Penalties shall accrue at a rate of not more than 6% per year or such other higher rate as authorized by law. Administrative costs, that is, the costs of processing and handling a delinquent debt, shall be determined by the Commerce entity collecting the debt, as directed by the Office of the Deputy Chief Financial Officer. Commerce entities may have additional policies regarding how interest, penalties, and administrative costs are assessed on particular types of debts, subject to the approval of the Deputy Chief Financial Officer. Commerce entities are required to explain in the notice to the debtor described in § 19.4 of this Part how interest, penalties, costs, and other charges are assessed, unless the requirements are included in a contract or other legally binding agreement.

(b) *Waiver of interest, penalties, and administrative costs.* Unless otherwise required by law or contract, Commerce entities may not charge interest if the amount due on the Commerce debt is paid within 30 days after the date from which the interest accrues. See 31 U.S.C. 3717(d). Commerce entities may waive interest, penalties, and administrative costs, or any portion thereof, when it would be against equity and good conscience or not in the United States' best interest to collect such charges, in accordance with Commerce guidelines for such waivers. Legal counsel approval to waive such charges is required. See Department of Commerce Credit and Debt Management

Operating Standards and Procedures Handbook (currently at *http://www.osec.doc.gov/ofm/credit/cover.htm).*

(c) *Accrual during suspension of debt collection.* In most cases, interest, penalties and administrative costs will continue to accrue during any period when collection has been suspended for any reason (for example, when the debtor has requested a hearing). Commerce entities may suspend accrual of any or all of these charges when accrual would be against equity and good conscience or not in the United States' best interest, in accordance with Commerce guidelines for such waivers. See Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at *http://www.osec.doc.gov/ofm/credit/cover.htm*).

§ 19.6 When will Commerce entities allow a debtor to pay a Commerce debt in installments instead of one lump sum?

If a debtor is financially unable to pay the Commerce debt in one lump sum, a Commerce entity may accept payment of a Commerce debt in regular installments, in accordance with the provisions of 31 CFR 901.8 and the Commerce entity's policies and procedures.

§ 19.7 When will Commerce entities compromise a Commerce debt?

If a Commerce entity cannot collect the full amount of a Commerce debt, the Commerce entity may compromise the Commerce debt in accordance with the provisions of 31 CFR part 902 and the Commerce entity's policies and procedures. Legal counsel approval to compromise a Commerce debt is required as described in Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at *http://www.osec.doc.gov/ofm/credit/cover.htm*).

§ 19.8 When will Commerce entities suspend or terminate debt collection on a Commerce debt?

If, after pursuing all appropriate means of collection, a Commerce entity determines that a Commerce debt is uncollectible, the Commerce entity may suspend or terminate debt collection activity in accordance with the provisions of 31 CFR part 903 and the Commerce entity's policies and procedures. Legal counsel approval to suspend or terminate collection on a Commerce debt is required as described in Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at *http://www.osec.doc.gov/ofm/credit/cover.htm*). Termination of debt collection activity by a Commerce entity does not discharge the indebtedness.

§ 19.9 When will Commerce entities transfer a Commerce debt to the Treasury Department's Financial Management Service for collection?

(a) Commerce entities will transfer any Commerce debt that is more than 180 days delinquent to the Financial Management Service for debt collection services, a process known as ''cross-servicing.'' See 31 U.S.C. 3711(g) and 31 CFR 285.12. Commerce entities may transfer Commerce debts delinquent 180 days or less to the Financial Management Service in accordance with the procedures described in 31 CFR 285.12. The Financial Management Service takes appropriate action to collect or compromise the transferred Commerce debt, or to suspend or terminate collection action thereon, in accordance with the statutory and regulatory requirements and authorities applicable to the Commerce debt and the collection action to be taken. See 31 CFR 285.12(b) and 285.12(c)(2). Appropriate action can include, but is not limited to, contact with the debtor, referral of the Commerce debt to the Treasury Offset Program, private collection agencies or the Department of Justice, reporting of the Commerce debt to credit bureaus, and administrative wage garnishment.

(b) At least sixty (60) days prior to transferring a Commerce debt to the Financial Management Service, Commerce entities will send notice to the debtor as required by § 19.4 of this Part. Commerce entities will certify to the Financial Management Service, in writing, that the Commerce debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection. In addition, Commerce entities will certify their compliance with all applicable due process and other requirements as described in this Part and other Federal laws. See 31 CFR 285.12(i) regarding the certification requirement.

(c) As part of its debt collection process, the Financial Management Service uses the Treasury Offset Program to collect Commerce debts by administrative and tax refund offset. See 31 CFR 285.12(g). The Treasury Offset Program is a centralized offset program administered by the Financial Management Service to collect delinquent debts owed to Federal agencies and states (including past-due child support). Under the Treasury Offset Program, before a Federal payment is disbursed, the Financial Management Service compares the name and taxpayer identification number (TIN) of the payee with the names and TINs of debtors that have been submitted by Federal agencies and states to the Treasury Offset Program database. If there is a match, the Financial Management Service (or, in some cases, another Federal disbursing agency) offsets all or a portion of the Federal payment, disburses any remaining payment to the payee, and pays the offset amount to the creditor agency. Federal payments eligible for offset include, but are not limited to, income tax refunds, salary, travel advances and reimbursements, retirement and vendor payments, and Social Security and other benefit payments.

§ 19.10 How will Commerce entities use administrative offset (offset of non-tax Federal payments) to collect a Commerce debt?

(a) *Centralized administrative offset through the Treasury Offset Program.* (1) In most cases, the Financial Management Service uses the Treasury Offset Program to collect Commerce debts by the offset of Federal payments. See § 19.9(c) of this Part. If not already transferred to the Financial Management Service under § 19.9 of this Part, Commerce entities will refer Commerce debt over 180 days delinquent to the Treasury Offset Program for collection by centralized administrative offset. See 31 U.S.C. 3716(c)(6); 31 CFR part 285, subpart A; and 31 CFR 901.3(b). Commerce entities may refer to the Treasury Offset Program for offset any Commerce debt that has been delinquent for 180 days or less.

(2) At least sixty (60) days prior to referring a Commerce debt to the Treasury Offset Program, in accordance with paragraph (a)(1) of this section, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part. Commerce entities will certify to the Financial Management Service, in writing, that the Commerce debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection by offset. In addition, Commerce entities will certify their compliance with the requirements described in this Part.

(b) *Non-centralized administrative offset for Commerce debts.* (1) When centralized administrative offset through the Treasury Offset Program is not available or appropriate, Commerce entities may collect past-due, legally enforceable Commerce debts through non-centralized administrative offset. See 31 CFR 901.3(c). In these cases, Commerce entities may offset a payment

internally or make an offset request directly to a Federal payment agency. If the Federal payment agency is another Commerce entity, the Commerce entity making the request shall do so through the Deputy Chief Financial Officer as described in § 19.20(c) of this Part.

(2) At least thirty (30) days prior to offsetting a payment internally or requesting a Federal payment agency to offset a payment, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part. When referring a Commerce debt for offset under this paragraph (b), Commerce entities making the request will certify, in writing, that the Commerce debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection by offset. In addition, Commerce entities will certify their compliance with these regulations concerning administrative offset. See 31 CFR 901.3(c)(2)(ii).

(c) *Administrative review.* The notice described in § 19.4 of this Part shall explain to the debtor how to request an administrative review of a Commerce entity's determination that the debtor owes a Commerce debt and how to present evidence that the Commerce debt is not delinquent or legally enforceable. In addition to challenging the existence and amount of the Commerce debt, the debtor may seek a review of the terms of repayment. In most cases, Commerce entities will provide the debtor with a ''paper hearing'' based upon a review of the written record, including documentation provided by the debtor. Commerce entities shall provide the debtor with a reasonable opportunity for an oral hearing when the debtor requests reconsideration of the Commerce debt and the Commerce entity determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the Commerce debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary hearing, although Commerce entities should carefully document all significant matters discussed at the hearing. Commerce entities may suspend collection through administrative offset and/or other collection actions pending the resolution of a debtor's dispute.

(d) *Procedures for expedited offset.* Under the circumstances described in 31 CFR 901.3(b)(4)(iii), Commerce entities may effect an offset against a payment to be made to the debtor prior to sending a notice to the debtor, as described in § 19.4 of this Part, or completing the procedures described in paragraph (b)(2) and (c) of this section. Commerce entities shall give the debtor notice and an opportunity for review as soon as practicable and promptly refund any money ultimately found not to have been owed to the Government. Legal counsel approval to effect such pre-notice offset is required as described in Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at *http://www.osec.doc.gov/ofm/credit/cover.htm*).

§ 19.11 How will Commerce entities use tax refund offset to collect a Commerce debt?

(a) *Tax refund offset.* In most cases, the Financial Management Service uses the Treasury Offset Program to collect Commerce debts by the offset of tax refunds and other Federal payments. See § 19.9(c) of this Part. If not already transferred to the Financial Management Service under § 19.9 of this Part, Commerce entities will refer to the Treasury Offset Program any past-due, legally enforceable Commerce debt for collection by tax refund offset. See 26 U.S.C. 6402(d), 31 U.S.C. 3720A and 31 CFR 285.2.

(b) *Notice.* At least sixty (60) days prior to referring a Commerce debt to the Treasury Offset Program, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part. Commerce entities will certify to the Financial Management Service's Treasury Offset Program, in writing, that the Commerce debt is past due and legally enforceable in the amount submitted and that the Commerce entities have made reasonable efforts to obtain payment of the Commerce debt as described in 31 CFR 285.2(d). In addition, Commerce entities will certify their compliance with all applicable due process and other requirements described in this Part and other Federal laws. See 31 U.S.C. 3720A(b) and 31 CFR 285.2.

(c) *Administrative review.* The notice described in § 19.4 of this Part shall provide the debtor with at least 60 days prior to the initiation of tax refund offset to request an administrative review as described in § 19.10(c) of this Part. Commerce entities may suspend collection through tax refund offset and/or other collection actions pending the resolution of the debtor's dispute.

§ 19.12 How will Commerce entities offset a Federal employee's salary to collect a Commerce debt?

(a) *Federal salary offset.* (1) Salary offset is used to collect debts owed to the United States by Commerce Department and other Federal employees. If a Federal employee owes a Commerce debt, Commerce entities may offset the employee's Federal salary to collect the Commerce debt in the manner described in this section. For information on how a Federal agency other than a Commerce entity may collect debt from the salary of a Commerce Department employee, see §§ 19.20 and 19.21, subpart C, of this Part.

(2) Nothing in this Part requires a Commerce entity to collect a Commerce debt in accordance with the provisions of this section if Federal law allows otherwise. See, for example, 5 U.S.C. 5705 (travel advances not used for allowable travel expenses are recoverable from the employee or his estate by setoff against accrued pay and other means) and 5 U.S.C. 4108 (recovery of training expenses).

(3) Commerce entities may use the administrative wage garnishment procedure described in § 19.13 of this Part to collect a Commerce debt from an individual's non-Federal wages.

(b) *Centralized salary offset through the Treasury Offset Program.* As described in § 19.9(a) of this Part, Commerce entities will refer Commerce debts to the Financial Management Service for collection by administrative offset, including salary offset, through the Treasury Offset Program. When possible, Commerce entities should attempt salary offset through the Treasury Offset Program before applying the procedures in paragraph (c) of this section. See 5 CFR 550.1108 and 550.1109.

(c) *Non-centralized salary offset for Commerce debts.* When centralized salary offset through the Treasury Offset Program is not available or appropriate, Commerce entities may collect delinquent Commerce debts through non-centralized salary offset. See 5 CFR 550.1109. In these cases, Commerce entities may offset a payment internally or make a request directly to a Federal payment agency to offset a salary payment to collect a delinquent Commerce debt owed by a Federal employee. If the Federal payment agency is another Commerce entity, the Commerce entity making the request shall do so through the Deputy Chief Financial Officer as described in § 19.20(c) of this Part. At least thirty (30) days prior to offsetting internally or requesting a Federal agency to offset a salary payment, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part. When referring a Commerce debt for offset, Commerce entities will certify

to the payment agency, in writing, that the Commerce debt is valid, delinquent and legally enforceable in the amount stated, and there are no legal bars to collection by salary offset. In addition, Commerce entities will certify that all due process and other prerequisites to salary offset have been met. See 5 U.S.C. 5514, 31 U.S.C. 3716(a), and this section for a description of the due process and other prerequisites for salary offset.

(d) *When prior notice not required.* Commerce entities are not required to provide prior notice to an employee when the following adjustments are made by a Commerce entity to a Commerce employee's pay:

(1) Any adjustment to pay arising out of any employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less;

(2) A routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment, and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and point of contact for contesting such adjustment; or

(3) Any adjustment to collect a Commerce debt amounting to $50 or less, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(e) *Hearing procedures*—(1) *Request for a hearing.* A Federal employee who has received a notice that his or her Commerce debt will be collected by means of salary offset may request a hearing concerning the existence or amount of the Commerce debt. The Federal employee also may request a hearing concerning the amount proposed to be deducted from the employee's pay each pay period. The employee must send any request for hearing, in writing, to the office designated in the notice described in § 19.4. See § 19.4(a)(11). The request must be received by the designated office on or before the 15th day following the employee's receipt of the notice. The employee must sign the request and specify whether an oral or paper hearing is requested. If an oral hearing is requested, the employee must explain why the matter cannot be resolved by review of the documentary evidence alone. All travel expenses incurred by the Federal employee in connection with an in-person hearing will be borne by the employee. See 31 CFR 901.3(a)(7).

(2) *Failure to submit timely request for hearing.* If the employee fails to submit a request for hearing within the time period described in paragraph (e)(1) of this section, the employee will have waived the right to a hearing, and salary offset may be initiated. However, Commerce entities should accept a late request for hearing if the employee can show that the late request was the result of circumstances beyond the employee's control or because of a failure to receive actual notice of the filing deadline.

(3) *Hearing official.* Commerce entities must obtain the services of a hearing official who is not under the supervision or control of the Secretary. Commerce entities may contact the Deputy Chief Financial Officer as described in § 19.20(c) of this Part or an agent of any Commerce agency designated in Appendix A to 5 CFR part 581 (List of Agents Designated to Accept Legal Process) to request a hearing official.

(4) *Notice of hearing.* After the employee requests a hearing, the designated hearing official shall inform the employee of the form of the hearing to be provided. For oral hearings, the notice shall set forth the date, time and location of the hearing. For paper hearings, the notice shall notify the employee of the date by which he or she should submit written arguments to the designated hearing official. The hearing official shall give the employee reasonable time to submit documentation in support of the employee's position. The hearing official shall schedule a new hearing date if requested by both parties. The hearing official shall give both parties reasonable notice of the time and place of a rescheduled hearing.

(5) *Oral hearing.* The hearing official will conduct an oral hearing if he or she determines that the matter cannot be resolved by review of documentary evidence alone (for example, when an issue of credibility or veracity is involved). The hearing need not take the form of an evidentiary hearing, but may be conducted in a manner determined by the hearing official, including but not limited to:

(i) Informal conferences with the hearing official, in which the employee and agency representative will be given full opportunity to present evidence, witnesses and argument;

(ii) Informal meetings with an interview of the employee by the hearing official; or

(iii) Formal written submissions, with an opportunity for oral presentation.

(6) *Paper hearing.* If the hearing official determines that an oral hearing is not necessary, he or she will make the determination based upon a review of the available written record, including any documentation submitted by the employee in support of his or her position. See 31 CFR 901.3(a)(7).

(7) *Failure to appear or submit documentary evidence.* In the absence of good cause shown (for example, excused illness), if the employee fails to appear at an oral hearing or fails to submit documentary evidence as required for a paper hearing, the employee will have waived the right to a hearing, and salary offset may be initiated. Further, the employee will have been deemed to admit the existence and amount of the Commerce debt as described in the notice of intent to offset. If the Commerce entity representative fails to appear at an oral hearing, the hearing official shall proceed with the hearing as scheduled, and make his or her determination based upon the oral testimony presented and the documentary evidence submitted by both parties.

(8) *Burden of proof.* Commerce entities will have the initial burden to prove the existence and amount of the Commerce debt. Thereafter, if the employee disputes the existence or amount of the Commerce debt, the employee must prove by a preponderance of the evidence that no such Commerce debt exists or that the amount of the Commerce debt is incorrect. In addition, the employee may present evidence that the proposed terms of the repayment schedule are unlawful, would cause a financial hardship to the employee, or that collection of the Commerce debt may not be pursued due to operation of law.

(9) *Record.* The hearing official shall maintain a summary record of any hearing provided by this Part. Witnesses will testify under oath or affirmation in oral hearings. See 31 CFR 901.3(a)(7).

(10) *Date of decision.* The hearing official shall issue a written opinion stating his or her decision, based upon documentary evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 days after the date on which the request for hearing was received by the Commerce entity. If the employee requests a delay in the proceedings, the deadline for the decision may be postponed by the number of days by which the hearing

was postponed. When a decision is not timely rendered, the Commerce entity shall waive interest and penalties applied to the Commerce debt for the period beginning with the date the decision is due and ending on the date the decision is issued.

(11) *Content of decision.* The written decision shall include:

(i) A statement of the facts presented to support the origin, nature, and amount of the Commerce debt;

(ii) The hearing official's findings, analysis, and conclusions; and

(iii) The terms of any repayment schedules, if applicable.

(12) *Final agency action.* The hearing official's decision shall be final.

(f) *Waiver not precluded.* Nothing in this Part precludes an employee from requesting waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or other statutory authority. Commerce entities may grant such waivers when it would be against equity and good conscience or not in the United States' best interest to collect such Commerce debts, in accordance with those authorities, 5 CFR 550.1102(b)(2), and Commerce policies and procedures. See Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at *http://www.osec.doc.gov/ofm/credit/cover.htm*).

(g) *Salary offset process*—(1) *Determination of disposable pay.* The Deputy Chief Financial Officer will consult with the appropriate Commerce entity payroll office to determine the amount of a Commerce Department employee's disposable pay (as defined in § 19.1 of this Part) and will implement salary offset when requested to do so by a Commerce entity, as described in paragraph (c) of this section, or another agency, as described in § 19.20 of this Part. If the debtor is not employed by the Commerce Department, the agency employing the debtor will determine the amount of the employee's disposable pay and will implement salary offset upon request.

(2) *When salary offset begins.* Deductions shall begin within three official pay periods following receipt of the creditor agency's request for offset.

(3) *Amount of salary offset.* The amount to be offset from each salary payment will be up to 15 percent of a debtor's disposable pay, as follows:

(i) If the amount of the Commerce debt is equal to or less than 15 percent of the disposable pay, such Commerce debt generally will be collected in one lump sum payment;

(ii) Installment deductions will be made over a period of no greater than the anticipated period of employment. An installment deduction will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount or the creditor agency has determined that smaller deductions are appropriate based on the employee's ability to pay.

(4) *Final salary payment.* After the employee has separated either voluntarily or involuntarily from the payment agency, the payment agency may make a lump sum deduction exceeding 15 percent of disposable pay from any final salary or other payments pursuant to 31 U.S.C. 3716 in order to satisfy a Commerce debt.

(h) *Payment agency's responsibilities.* (1) As required by 5 CFR 550.1109, if the employee separates from the payment agency from which a Commerce entity has requested salary offset, the payment agency must certify the total amount of its collection and notify the Commerce entity and the employee of the amounts collected. If the payment agency is aware that the employee is entitled to payments from the Civil Service Retirement Fund and Disability Fund, the Federal Employee Retirement System, or other similar payments, it must provide written notification to the payment agency responsible for making such payments that the debtor owes a Commerce debt, the amount of the Commerce debt, and that the Commerce entity has complied with the provisions of this section. Commerce entities must submit a properly certified claim to the new payment agency before the collection can be made.

(2) If the employee is already separated from employment and all payments due from his or her former payment agency have been made, Commerce entities may request that money due and payable to the employee from the Civil Service Retirement Fund and Disability Fund, the Federal Employee Retirement System, or other similar funds, be administratively offset to collect the Commerce debt. Generally, Commerce entities will collect such monies through the Treasury Offset Program as described in § 19.9(c) of this Part.

(3) When an employee transfers to another agency, Commerce entities should resume collection with the employee's new payment agency in order to continue salary offset.

§ 19.13 How will Commerce entities use administrative wage garnishment to collect a Commerce debt from a debtor's wages?

(a) Commerce entities are authorized to collect Commerce debts from an individual debtor's wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11. This Part adopts and incorporates all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). Commerce entities may use administrative wage garnishment to collect a delinquent Commerce debt unless the debtor is making timely payments under an agreement to pay the Commerce debt in installments (see § 19.6 of this Part). At least thirty (30) days prior to initiating an administrative wage garnishment, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part, including the requirements of § 19.4(a)(10) of this Part. For Commerce debts referred to the Financial Management Service under § 19.9 of this Part, Commerce entities may authorize the Financial Management Service to send a notice informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing as described in § 19.4(a)(10) of this Part. If a debtor makes a timely request for a hearing, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor. See 31 CFR 285.11(f)(4). Even if a debtor's hearing request is not timely, Commerce entities may suspend collection by administrative wage garnishment in accordance with the provisions of 31 CFR 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(b) This section does not apply to Federal salary offset, the process by which Commerce entities collect Commerce debts from the salaries of Federal employees (see § 19.12 of this Part).

§ 19.14 How will Commerce entities report Commerce debts to credit bureaus?

Commerce entities shall report delinquent Commerce debts to credit bureaus in accordance with the provisions of 31 U.S.C. 3711(e), 31 CFR 901.4, and the Office of Management and Budget Circular A–129, ''Policies for Federal Credit Programs and Non-tax Receivables.'' For additional information, see Financial Management Service's ''Guide to the Federal Credit Bureau Program,'' which currently may

be found at *http://www.fms.treas.gov/debt.* At least sixty (60) days prior to reporting a delinquent Commerce debt to a consumer reporting agency, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part. Commerce entities may authorize the Financial Management Service to report to credit bureaus those delinquent Commerce debts that have been transferred to the Financial Management Service under § 19.9 of this Part.

§ 19.15 How will Commerce entities refer Commerce debts to private collection agencies?

Commerce entities will transfer delinquent Commerce debts to the Financial Management Service to obtain debt collection services provided by private collection agencies. See § 19.9 of this Part.

§ 19.16 When will Commerce entities refer Commerce debts to the Department of Justice?

(a) *Compromise or suspension or termination of collection activity.* Commerce entities shall refer Commerce debts having a principal balance over $100,000, or such higher amount as authorized by the Attorney General, to the Department of Justice for approval of any compromise of a Commerce debt or suspension or termination of collection activity. See § § 19.7 and 19.8 of this Part; 31 CFR 902.1; 31 CFR 903.1.

(b) *Litigation.* Commerce entities shall promptly refer to the Department of Justice for litigation delinquent Commerce debts on which aggressive collection activity has been taken in accordance with this Part and that should not be compromised, and on which collection activity should not be suspended or terminated. See 31 CFR part 904. Commerce entities may authorize the Financial Management Service to refer to the Department of Justice for litigation those delinquent Commerce debts that have been transferred to the Financial Management Service under § 19.9 of this Part.

§ 19.17 Will a debtor who owes a Commerce or other Federal agency debt, and persons controlled by or controlling such debtors, be ineligible for Federal loan assistance, grants, cooperative agreements, or other sources of Federal funds or for Federal licenses, permits or privileges?

(a) Delinquent debtors are ineligible for and barred from obtaining Federal loans or loan insurance or guaranties. As required by 31 U.S.C. 3720B and 31 CFR 901.6, Commerce entities will not extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a debt owed to a Federal agency. The Commerce Department may issue standards under which the Commerce Department may determine that persons controlled by or controlling such delinquent debtors are similarly ineligible in accordance with 31 CFR 285.13(c)(2). This prohibition does not apply to disaster loans. Commerce entities may extend credit after the delinquency has been resolved. See 31 CFR 285.13. Waivers of ineligibility may be granted by the Secretary or designee on a person by person basis in accordance with 31 CFR 285.13(g). However, such authority may not be delegated below the Deputy Chief Financial Officer.

(b) A debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive grants, loans or funds directly or indirectly from the United States until the judgment is paid in full or otherwise satisfied. This prohibition does not apply to funds to which the debtor is entitled as beneficiary. The Commerce Department may promulgate regulations to allow for waivers of this ineligibility. See 28 U.S.C. 3201(e).

(c) Suspension or revocation of eligibility for licenses, permits, or privileges. Unless prohibited by law, Commerce entities with the authority to do so under the circumstances should deny, suspend or revoke licenses, permits, or other privileges for any inexcusable or willful failure of a debtor to pay a debt. The Commerce entity responsible for distributing the licenses, permits, or other privileges will establish policies and procedures governing suspension and revocation for delinquent debtors. If applicable, Commerce entities will advise the debtor in the notice required by § 19.4 of this Part of the Commerce entities' ability to deny, suspend or revoke licenses, permits or privileges. See § 19.4(a)(16) of this Part.

(d) To the extent that a person delinquent on a Commerce debt is not otherwise barred under § 19.17(a)(c) of this Part from becoming or remaining a recipient of a Commerce grant or cooperative agreement, it is Commerce policy that no award of Federal funds shall be made to a Commerce grant or cooperative agreement applicant who has an outstanding delinquent Commerce debt until:

(1) The delinquent Commerce debt is paid in full,

(2) A negotiated repayment schedule acceptable to Commerce is established and at least one payment is received, or

(3) Other arrangements satisfactory to Commerce are made.

§ 19.18 How does a debtor request a special review based on a change in circumstances such as catastrophic illness, divorce, death, or disability?

(a) *Material change in circumstances.* A debtor who owes a Commerce debt may, at any time, request a special review by the applicable Commerce entity of the amount of any offset, administrative wage garnishment, or voluntary payment, based on materially changed circumstances beyond the control of the debtor such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b) *Inability to pay.* For purposes of this section, in determining whether an involuntary or voluntary payment would prevent the debtor from meeting essential subsistence expenses (*e.g.*, costs incurred for food, housing, clothing, transportation, and medical care), the debtor shall submit a detailed statement and supporting documents for the debtor, his or her spouse, and dependents, indicating:

(1) Income from all sources;

(2) Assets;

(3) Liabilities;

(4) Number of dependents;

(5) Expenses for food, housing, clothing, and transportation;

(6) Medical expenses;

(7) Exceptional expenses, if any; and

(8) Any additional materials and information that the Commerce entity may request relating to ability or inability to pay the amount(s) currently required.

(c) *Alternative payment arrangement.* If the debtor requests a special review under this section, the debtor shall submit an alternative proposed payment schedule and a statement to the Commerce entity collecting the Commerce debt, with supporting documents, showing why the current offset, garnishment or repayment schedule imposes an extreme financial hardship on the debtor. The Commerce entity will evaluate the statement and documentation and determine whether the current offset, garnishment, or repayment schedule imposes extreme financial hardship on the debtor. The Commerce entity shall notify the debtor in writing of such determination, including, if appropriate, a revised offset, garnishment, or payment schedule. If the special review results in a revised offset, garnishment, or repayment schedule, the Commerce entity will notify the appropriate Federal agency or other persons about the new terms.

§ 19.19 Will Commerce entities issue a refund if money is erroneously collected on a Commerce debt?

Commerce entities shall promptly refund to a debtor any amount collected on a Commerce debt when the Commerce debt is waived or otherwise found not to be owed to the United States, or as otherwise required by law. Refunds under this Part shall not bear interest unless required by law.

Subpart C—Procedures for Offset of Commerce Department Payments To Collect Debts Owed to Other Federal Agencies

§ 19.20 How do other Federal agencies use the offset process to collect debts from payments issued by a Commerce entity?

(a) *Offset of Commerce entity payments to collect debts owed to other Federal agencies.* (1) In most cases, Federal agencies submit debts to the Treasury Offset Program to collect delinquent debts from payments issued by Commerce entities and other Federal agencies, a process known as ''centralized offset.'' When centralized offset is not available or appropriate, any Federal agency may ask a Commerce entity (when acting as a ''payment agency'') to collect a debt owed to such agency by offsetting funds payable to a debtor by the Commerce entity, including salary payments issued to Commerce entity employees. This section and § 19.21 of this subpart C apply when a Federal agency asks a Commerce entity to offset a payment issued by the Commerce entity to a person who owes a debt to the United States.

(2) This subpart C does not apply to Commerce debts. See § § 19.10 through 19.12 of this Part for offset procedures applicable to Commerce debts.

(3) This subpart C does not apply to the collection of non-Commerce debts through tax refund offset. See 31 CFR 285.2 for tax refund offset procedures.

(b) *Administrative offset (including salary offset); certification.* A Commerce entity will initiate a requested offset only upon receipt of written certification from the creditor agency that the debtor owes the past-due, legally enforceable debt in the amount stated, and that the creditor agency has fully complied with all applicable due process and other requirements contained in 31 U.S.C. 3716, 5 U.S.C. 5514, and the creditor agency's regulations, as applicable. Offsets will continue until the debt is paid in full or otherwise resolved to the satisfaction of the creditor agency.

(c) *Where a creditor agency makes requests for offset.* Requests for offset under this section shall be sent to the Department of Commerce, ATTN: Deputy Chief Financial Officer, 1401 Constitution Avenue, NW., Room 6827, Washington, DC 20230. The Deputy Chief Financial Officer will forward the request to the appropriate Commerce entity for processing in accordance with this subpart C.

(d) *Incomplete certification.* A Commerce entity will return an incomplete debt certification to the creditor agency with notice that the creditor agency must comply with paragraph (b) of this section before action will be taken to collect a debt from a payment issued by a Commerce entity.

(e) *Review.* A Commerce entity is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(f) *When Commerce entities will not comply with offset request.* A Commerce entity will comply with the offset request of another agency unless the Commerce entity determines that the offset would not be in the best interests of the United States, or would otherwise be contrary to law.

(g) *Multiple debts.* When two or more creditor agencies are seeking offsets from payments made to the same person, or when two or more debts are owed to a single creditor agency, the Commerce entity that has been asked to offset the payments may determine the order in which the debts will be collected or whether one or more debts should be collected by offset simultaneously.

(h) *Priority of debts owed to Commerce entity.* For purposes of this section, debts owed to a Commerce entity generally take precedence over debts owed to other agencies. The Commerce entity that has been asked to offset the payments may determine whether to pay debts owed to other agencies before paying a debt owed to a Commerce entity. The Commerce entity that has been asked to offset the payments will determine the order in which the debts will be collected based on the best interests of the United States.

§ 19.21 What does a Commerce entity do upon receipt of a request to offset the salary of a Commerce entity employee to collect a debt owed by the employee to another Federal agency?

(a) *Notice to the Commerce employee.* When a Commerce entity receives proper certification of a debt owed by one of its employees, the Commerce entity will begin deductions from the employee's pay at the next officially established pay interval. The Commerce entity will send a written notice to the employee indicating that a certified debt claim has been received from the creditor agency, the amount of the debt claimed to be owed by the creditor agency, the date deductions from salary will begin, and the amount of such deductions.

(b) *Amount of deductions from Commerce employee's salary.* The amount deducted under § 19.20(b) of this Part will be the lesser of the amount of the debt certified by the creditor agency or an amount up to 15% of the debtor's disposable pay. Deductions shall continue until the Commerce entity knows that the debt is paid in full or until otherwise instructed by the creditor agency. Alternatively, the amount offset may be an amount agreed upon, in writing, by the debtor and the creditor agency. See § 19.12(g) (salary offset process).

(c) *When the debtor is no longer employed by the Commerce entity.* (1) *Offset of final and subsequent payments.* If a Commerce entity employee retires or resigns or if his or her employment ends before collection of the debt is complete, the Commerce entity will continue to offset, under 31 U.S.C. 3716, up to 100% of an employee's subsequent payments until the debt is paid or otherwise resolved. Such payments include a debtor's final salary payment, lump-sum leave payment, and other payments payable to the debtor by the Commerce entity. See 31 U.S.C. 3716 and 5 CFR 550.1104(l) and 550.1104(m).

(2) *Notice to the creditor agency.* If the employee is separated from the Commerce entity before the debt is paid in full, the Commerce entity will certify to the creditor agency the total amount of its collection. If the Commerce entity is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, Federal Employee Retirement System, or other similar payments, the Commerce entity will provide written notice to the agency making such payments that the debtor owes a debt (including the amount) and that the provisions of 5 CFR 550.1109 have been fully complied with. The creditor agency is responsible for submitting a certified claim to the agency responsible for making such payments before collection may begin. Generally, creditor agencies will collect such monies through the Treasury Offset Program as described in § 19.9(c) of this Part.

(3) *Notice to the debtor.* The Commerce entity will provide to the debtor a copy of any notices sent to the

creditor agency under paragraph (c)(2) of this section.

(d) *When the debtor transfers to another Federal agency*—(1) *Notice to the creditor agency.* If the debtor transfers to another Federal agency before the debt is paid in full, the Commerce entity will notify the creditor agency and will certify the total amount of its collection on the debt. The Commerce entity will provide a copy of the certification to the creditor agency. The creditor agency is responsible for submitting a certified claim to the debtor's new employing agency before collection may begin.

(2) *Notice to the debtor.* The Commerce entity will provide to the debtor a copy of any notices and certifications sent to the creditor agency under paragraph (d)(1) of this section.

(e) *Request for hearing official.* A Commerce entity will provide a hearing official upon the creditor agency's request with respect to a Commerce entity employee. See 5 CFR 550.1107(a).

PART 21—[REMOVED AND RESERVED]

■ 2. Remove and reserve part 21.

PART 22—[REMOVED AND RESERVED]

■ 3. Remove and reserve part 22.

Dated: April 5, 2007.

Lisa Casias,

Deputy Chief Financial Officer and Director for Financial Management, Department of Commerce.

[FR Doc. E7–6699 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–FA–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 37

[Docket Nos. RM05–17–000 and RM05–25–000; Order No. 890]

Preventing Undue Discrimination and Preference in Transmission Service

Issued April 6, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule; Notice of Technical Conferences.

SUMMARY: On February 16, 2007, the Federal Energy Regulatory Commission issued Order No. 890, which amended the regulations and the *pro forma* open access transmission tariff (OATT). The Commission's staff is convening technical conferences to review and discuss the ''strawman'' proposals regarding the processes for transmission planning required by the Final Rule.

DATES: Conference dates:

June 4–7, 2007, Little Rock, Arkansas.

June 13, 2007, Park City, Utah.

June 28–29, 2007, Pittsburgh, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Daniel Hedberg (Technical Information), Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6243.

W. Mason Emnett (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6540.

SUPPLEMENTARY INFORMATION:

Notice of Technical Conferences

Take notice that Commission staff will convene technical conferences on the following dates in the following cities to review and discuss the ''strawman'' proposals regarding processes for transmission planning required by the Final Rule issued in this proceeding on February 16, 2007.[1] Staff expects all transmission providers and/or regional representatives to participate in the technical conference for their particular region, although all interested persons, including other transmission providers, are invited to attend each conference.

Date	Location	Transmission provider participants
June 4–7, 2007	Little Rock, AR	Entities located in the states represented in the Southeastern Association of Regulatory Utility Commissioners (SEARUC) and entities located in the Southwest Power Pool footprint, presenting on June 4–5 and 6–7, respectively.
June 13, 2007	Park City, Utah	Entities located within the ColumbiaGrid and Northern Tier Transmission Group footprints and other northern WECC regions.[2]
June 28–29, 2007	Pittsburgh, PA	Entities located within the Midwest ISO, PJM, New York ISO, and ISO New England footprints and adjacent areas.
TBD	TBD	Entities located in the West other than those attending the June 13, 2007 conference in Park City, Utah.[2]

A further notice with a detailed agenda for each conference will be issued in advance of the conferences. In the event a transmission provider is uncertain as to which technical conference is the appropriate forum for discussion of its ''strawman'' proposal, such transmission providers should contact Commission staff in advance to discuss the matter.

For further information about these conferences, please contact:

W. Mason Emnett, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6461, *Mason.Emnett@ferc.gov.*

Daniel Hedberg, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6243, *Daniel.Hedberg@ferc.gov.*

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–7085 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Monetary Offices

31 CFR Part 82

Prohibition on the Exportation, Melting, or Treatment of 5-Cent and One-Cent Coins

AGENCY: United States Mint, Treasury.

ACTION: Final Rule.

SUMMARY: To protect the coinage of the United States, the United States Mint is adopting a final rule that prohibits the

[1] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 at P 443 (2007), *reh'g pending.*

[2] Staff also requests that a representative of WECC's Transmission Expansion Planning Policy Committee attend these technical conferences.

exportation, melting, and treatment of 5-cent and one-cent coins. This rule is issued pursuant to 31 U.S.C. 5111(d), which authorizes the Secretary of the Treasury to prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States. This rule's purpose is to ensure that sufficient quantities of 5-cent and one-cent coins remain in circulation to meet the needs of the United States.

DATES: *Effective Date:* This final rule is effective April 16, 2007.

FOR FURTHER INFORMATION CONTACT: Kristie Bowers, Attorney-Advisor, United States Mint at (202) 354–7631 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background

Section 5111(d) of title 31, United States Code, authorizes the Secretary of the Treasury to prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States. In enacting 31 U.S.C. 5111(d), Congress has conferred upon the Secretary of the Treasury broad discretion to ensure that he can effectively carry out his statutory duties to protect the Nation's coinage and to ensure that sufficient quantities of coins are in circulation to meet the needs of the United States.

Pursuant to this authority, the Secretary of the Treasury has determined that, to protect the coinage of the United States, it is necessary to generally prohibit the exportation, melting, or treatment of 5-cent and one-cent coins minted and issued by the United States. The Secretary has made this determination because the values of the metal contents of 5-cent and one-cent coins are in excess of their respective face values, raising the likelihood that these coins will be the subject of recycling and speculation. The prohibitions contained in this final rule apply only to 5-cent and one-cent coins. It is anticipated that this regulation will be a temporary measure that will be rescinded once actions are taken, or conditions change, to abate concerns that sufficient quantities of 5-cent and one-cent coins will remain in circulation to meet the needs of the United States. The Secretary of the Treasury has delegated to the Director of the United States Mint the authority to issue these regulations and to approve exceptions by license.

II. Interim Rule

This final rule is based on the interim rule published Wednesday, December 20, 2006 (71 FR 76148). The interim rule sought public comment on the proposed final rule.

The comment period for the interim rule ended on January 19, 2007. The United States Mint received 31 comments from members of the public, businesses and trade associations.

III. Summary of Comments

General Overview

Two commenters fully supported the regulation. One trade association supported the regulation as long as its proposed exception was included in the final regulation. Three commenters stated that the regulation should only be a temporary measure until a solution could be attained on the underlying issue. One commenter supported the regulation as it applies to 5-cent coins, but opposed the regulation as it applies to one-cent coins. Eighteen commenters generally opposed the regulation. Six commenters did not state whether they supported or opposed the regulation, but instead suggested an amendment to the regulation or proposed a solution to the underlying issue.

Comments on Eliminating the 5-Cent Coin or One-Cent Coin and Altering Their Composition

One bank and three individuals suggested that the United States government should eliminate the 5-cent coin and the one-cent coin as circulating coinage. The bank stated, ''The cost associated with the creating and handling of these low denomination coins far exceeds their value.'' Five commenters suggested that the United States Mint change the content of the 5-cent and one-cent coins to less expensive alloys. Two commenters suggested that the United States Mint eliminate the one-cent coin and alter the composition of the 5-cent coin. Commenters stated that the United States government should eliminate one-cent coins because they ''waste pocket space'' and people ''throw them away.'' A few of the commenters suggested that one-cent coins be eliminated after the 2009 Abraham Lincoln Bicentennial One-Cent Coin Redesign, provided for by Title III of the Presidential $1 Coin Act of 2005, Public Law 109–145 (Dec. 22, 2005). Two commenters suggested that existing 5-cent and one-cent coins be physically altered; one suggested punching holes in the center to decrease their melt value, and the other suggested encasing them in a ring of metal and increasing the denomination of the coins. Two commenters suggested the United States Mint begin producing a two-cent coin or a three-cent coin.

The changes suggested by these comments are outside the scope of the interim rule, which is limited to implementation of the Secretary of the Treasury's authority under 31 U.S.C. 5111(d) to prohibit the exportation, melting, or treatment of coins when necessary to protect the coinage of the United States. We note, however, that under Article I, section 8, clause 5, of the United States Constitution, only Congress has the power to coin money and regulate its value. Congress determines the denominations, specifications, and design of United States coins. Under 31 U.S.C. 5112(c), Congress has delegated to the Secretary of the Treasury the authority to ''prescribe the weight and the composition of copper and zinc in the alloy of the one-cent coin that the Secretary decides are appropriate when the Secretary decides that a different weight and alloy of copper and zinc are necessary to ensure an adequate supply of one-cent coins to meet the needs of the United States.'' However, Congress has not delegated to the Secretary the authority to alter the composition of the one-cent coin to a metal, or an alloy of metals, other than copper and zinc. The United States Mint has ongoing research into alternative metals for the Nation's coinage. Changing the metal content or the denomination of United States coins requires legislation passed by Congress and approved by the President.

Comments on Increasing the Face Value Limit on the Exporting Exception for One-Cent and 5-Cent Coins Carried on Individual or in Personal Effects

Three commenters suggested that the aggregate face-value limit on the number of 5-cent and one-cent coins that can be exported by an individual carried on his or her person or in his or her personal effects should be increased. One of the commenters gave the example of Americans crossing the border into Canada to play ''nickel slot'' machines or ''penny-ante'' poker. The other commenter pointed out that a person would not be able to carry on his or her person one roll containing 5-cent coins bearing each of the five United States Mint Westward Journey Nickel Series™ designs without exceeding the $5 face-value limit, and would have to ship them out of the country instead.

The aggregate face-value limit selected for the interim rule was the same face-value limit used when the Secretary invoked the standby authority of 31 U.S.C. 5111(d) for the periods

1967–1969 and 1974–1978. The United States Mint recognizes that some 30 years have passed since this authority was last invoked and, based on the consumer price index, the $5 limit in the previous regulations would be equivalent to about $20 today. However, the face values of 5-cent coins and one-cent coins obviously have not changed over this time period and there is no evidence to suggest that an average individual carries any more 5-cent or one-cent coins in his or her pocket change today, than in 1974 or 1967. Accordingly, the United States Mint has kept the aggregate face-value limit for the exception provided for in the current regulation at section 82.2(a)(2) at $5.

The United States Mint nevertheless acknowledges the concerns raised by the commenters. Therefore, the exception provided for in the current regulation at section 82.2(a)(2) has been amended to reasonably accommodate these concerns by allowing exportation of 5-cent and one-cent coins having an aggregate face value of up to $25 when it is clear that the purpose for exporting such coins is for legitimate personal numismatic, amusement, or recreational use.

Comments on Redeeming or Reclaiming One-Cent Coins

Two commenters suggested the United States Mint should redeem existing 5-cent and one-cent coins and alter their physical form, as discussed above. One commenter suggested that the United States Mint and the Federal Reserve should encourage the public to redeem their unused one-cent coins and pay a small premium over their face value, and then the United States Mint could reclaim the pre-1982 copper one-cent coins for their metal content. One commenter stated that recycling the 5-cent and one-cent coins should not be prohibited because, if the coins are recycled for their metal content, it would increase the supply of copper, nickel and zinc, with the ensuing market forces resulting in a price decrease for those metals.

The purpose of this regulation is to protect 5-cent and one-cent coins in circulation from being the subject of recycling and speculation in order to ensure that sufficient quantities of the coins remain in circulation to meet the needs of the United States. This regulation is not intended to address the cost and supply of metals used in, or the specifications for, the production of future 5-cent and one-cent coins. Further, the authorizing statute, 31 U.S.C. 5111(d), permits the Secretary of the Treasury only to prohibit or limit the exportation, melting, or treatment of United States coins. It does not authorize the Secretary to redeem current United States coin.

Comments on the Constitutionality of the Regulation

Twelve commenters stated that coins are the personal property of the holder and the Department of the Treasury does not have the authority to regulate what a person does with his or her own property. Although it is generally recognized that money is the property of its bearer under common law, Congress has the power to regulate the coins and currency of the United States pursuant to its authority under Article I, section 8, clause 5, of the United States Constitution. For instance, Congress has relied on that authority to regulate the use of coins by making it illegal to alter, deface, or mutilate United States coins with fraudulent intent, *see* 18 U.S.C. 331; to debase United States coins with fraudulent intent, *see* 18 U.S.C. 332; and to attach any business or professional card, notice, or advertisement on any United States coin, *see* 18 U.S.C. 475. There are many other examples of personal property whose use is regulated by the Federal government. These include controlled drugs; firearms; copyrighted books, electronic recordings; United States postage stamps; Federal Reserve notes; and uniforms and service medals of the Armed Forces. Such regulations are generally enacted to protect competing ownership interests in the same property, to protect the health and safety of the public, or to protect a special governmental interest in property otherwise privately owned. In this case, the Federal Government has an interest in ensuring that sufficient quantities of 5-cent and one-cent coins remain in circulation to meet the needs of the United States.

Moreover, while several provisions of the Constitution protect property rights, a statute or regulation is not unconstitutional merely because it has some effect on those rights. *See, e.g., Penn Central Transp. Corp.* v. *New York City*, 438 U.S. 104 (1978) (Government restrictions on the use of private property are legal when substantially related to the promotion of the general welfare and do not prohibit reasonable beneficial use). The regulation here is necessary to protect the United States coinage. In addition, the standby authority that the Secretary of the Treasury possesses under 31 U.S.C. 5111(d) has been in effect since 1965; therefore, members of the public generally have been on notice that they accept and use U.S. coinage subject to this potential limitation. None of the comments set forth any specific theory under which the regulation is asserted to be unconstitutional, and we continue to believe that this is not the case.

Comments on Debasement and Devaluation

Eleven commenters discussed inflation and the debasement and devaluation of United States currency. However, this issue is beyond the scope of this regulation. Pursuant to the authorizing statute, 31 U.S.C. 5111, this regulation's purpose is to protect the Nation's coinage by ensuring there are sufficient 5-cent and one-cent coins in circulation to meet the needs of the United States.

Comments on Enforcement of the Regulation

One commenter stated that the penalties provided in the regulation are too harsh. However, the statute that enables the Secretary of the Treasury to issue this regulation, 31 U.S.C. 5111(d), mandates the penalties for engaging in the prohibited activities, as follows:

(d)(1) The Secretary may prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States.

(2) A person knowingly violating an order or license issued or regulation prescribed under paragraph (1) of this subsection, shall be fined not more than $ 10,000, imprisoned not more than 5 years, or both.

Three commenters stated that the cost of enforcing the regulation would exceed the minting costs that the regulation is intended to save, or that enforcing the regulation is a waste of law enforcement resources. The Secretary of the Treasury has weighed the enforcement costs associated with the enactment of this regulation against the potential costs of not enacting this regulation and has determined that it is in the public's best interest to enact this regulation as a temporary measure until actions are taken, or conditions change, to abate concerns that sufficient quantities of 5-cent and one-cent coins will remain in circulation to meet the needs of the United States.

Two commenters voiced concern that the Federal Government could arrest or fine a science teacher for experimenting with a one-cent coin during a classroom demonstration, or could arrest or fine a child for using a penny pressing machine at an amusement park. However, the regulation includes an exception for the treatment of 5-cent and one-cent coins for educational,

amusement, novelty, jewelry, and similar purposes as long as the volumes treated and the nature of the treatment make it clear that such treatment is not intended as a means by which to profit solely from the value of the metal content of the coins.

Six commenters stated that the public would hoard the coins and remove them from circulation. The United States Mint is aware that 5-cent and one-cent coins may be hoarded. However, the legislative history of 31 U.S.C. 5111(d) indicates that when Congress passed the Coinage Act of 1965, section 105 (the predecessor provision to 31 U.S.C. 5111(d)), it did not intend on prohibiting hoarding because of concerns that such prohibitions would be difficult to enforce and that citizens might unknowingly violate the regulations. The United States Mint does not intend to prohibit the hoarding of 5-cent and one-cent coins but, consistent with the legislative intent of 31 U.S.C. 5111(d), has implemented these prohibitions on exportation, melting, and treatment to reduce the incentive to hoard these coins.

Comments From Trade Associations and Businesses

The Institute of Scrap Recycling Industries, Inc. (Institute), a trade association for the recycling industry, submitted a comment suggesting that an exception be added for the unintended exportation, melting, and treatment of 5-cent and one-cent coins that occurs incidental to the recycling of other materials, such as scrap automobiles and construction and demolition debris. We agree that such melting should not be prohibited, and have added an exception for coins incidentally present in recycled scrap. In doing so, we express no view as to whether the melting or export of coins under the circumstances described by the Institute would otherwise violate the regulation.

The Industry Council for Tangible Assets (Council), a trade association for rare coin and precious metals dealers, submitted a comment suggesting that an exception be added for the exportation, melting, or treatment of ''war nickels.'' War nickels were 5-cent coins produced during World War II, from 1942 through 1945, from a special alloy of copper, silver, and manganese in order to conserve nickel for the war effort. The Council points out that the war nickels are traded for their numismatic value, they are melted for the value of their metal composition, and that few, if any, remain as circulating coins. Because it appears that covering war nickels under the regulation would disrupt longstanding practices and would not further the protection of circulating coinage, we have added an exception for such coins.

Advice From the Cash Product Office of the Federal Reserve

The Cash Product Office of the Federal Reserve advised that some depository institutions export 5-cent and one-cent coins, as well as other U.S. circulating coins, to foreign countries that have so-called ''dollarized'' monetary systems. Central banks in these countries purchase U.S. circulating coinage from domestic depository institutions for use as circulating money in their own countries. To accommodate this legitimate requirement to permit the exportation of 5-cent and one-cent coins, we have added an additional exception to the final regulation.

IV. Conclusion

Based on the comments received and the analysis of those comments as set forth above, and based on the additional considerations discussed above, the Department of the Treasury, United States Mint, has concluded that the interim regulation will be adopted as a final rule, with certain changes as discussed above and set forth below.

V. Procedural Requirements

This rule is not a significant regulatory action for the purposes of Executive Order 12866.

Because a notice of proposed rulemaking was not required prior to the implementation of the interim rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6), do not apply.

The final rule does not impose a ''collection of information'' requirement within the meaning of the Paperwork Reduction Act of 1995.

The final rule will be effective upon publication. The final rule relieves some of the restrictions in the interim rule by providing for new exceptions and for the expansion of existing exceptions. Accordingly, because the final rule grants or recognizes an exemption or relieves a restriction currently in place, 5 U.S.C. 553(d)(1) exempts the final rule from the requirement in 5 U.S.C. 553(d) that the publication or service of a substantive rule shall be made not less than 30 days before its effective date.

VI. Format

The format of the final rule is generally consistent with the format of the interim rule.

List of Subjects in 31 CFR Part 82

Administrative practice and procedure, Currency, Exports, Penalties.

Amendments to the Regulation

■ For the reasons set forth above, the interim rule amending Chapter 1 of Subtitle B of Title 31 of the Code of Federal Regulations, which was published at 71 FR 76148 on December 20, 2006, is adopted as a final rule with the following changes.

PART 82—5-CENT AND ONE-CENT COIN REGULATIONS

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 31 U.S.C. 5111(d).

■ 2. Section 82.2 is amended by revising paragraph (a)(2), redesignating current paragraph (c) as paragraph (f), and adding new paragraphs (c), (d), and (e) as follows:

§ 82.2 Exceptions.

(a) * * *

(2) The exportation of 5-cent coins and one-cent coins carried on an individual, or in the personal effects of an individual, departing from a place subject to the jurisdiction of the United States, when the aggregate face value is not more than $5, or when the aggregate face value is not more than $25 and it is clear that the purpose for exporting such coins is for legitimate personal numismatic, amusement, or recreational use.

* * * * *

(c) The prohibition contained in § 82.1 against the exportation, melting, or treatment of 5-cent and one-cent coins of the United States shall not apply to coins exported, melted, or treated incidental to the recycling of other materials so long as—

(1) Such 5-cent and one-cent coins were not added to the other materials for their metallurgical value;

(2) The volumes of the 5-cent coins and one-cent coins, relative to the volumes of the other materials recycled, makes it clear that the presence of such coins is merely incidental; and

(3) The separation of the 5-cent and one-cent coins from the other materials would be impracticable or cost prohibitive.

(d) The prohibition contained in § 82.1 against the exportation, melting, or treatment of 5-cent coins shall not apply to 5-cent coins inscribed with the years 1942, 1943, 1944, or 1945 that are composed of an alloy comprising copper, silver and manganese.

(e) The prohibition contained in § 82.1 against the exportation of 5-cent coins and one-cent coins shall not apply to 5-cent coins and one-cent coins exported by a Federal Reserve Bank or a domestic depository institution, or to

a foreign central bank, when the exportation of such 5-cent coins and one-cent coins is for use as circulating money.

* * * * *

Dated: April 10, 2007.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E7–7088 Filed 4–13–07; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–030]

Drawbridge Operation Regulations; Quinnipiac River, New Haven, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Ferry Street Bridge, across the Quinnipiac River, mile 0.7, at New Haven, Connecticut. This deviation, allows the bridge owner to keep one of the two moveable bascule spans in the closed position from April 16, 2007 through September 27, 2007. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from April 16, 2007 through September 27, 2007.

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

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Ferry Street Bridge, across the Quinnipiac River, mile 0.7, at New Haven, Connecticut, has a vertical clearance in the closed position of 25 feet at mean high water and 31 feet at mean low water. The existing regulation requires the bridge to open on demand except for certain morning, mid-day and evening hours.

Connecticut Department of Transportation on behalf of the owner of the bridge, the City of New Haven, requested a temporary deviation to facilitate scheduled structural bridge fender repairs and painting at the bridge.

In order to perform the structural repairs, one bascule span will remain in the closed position and the other span will remain open.

Under this temporary deviation the Ferry Street Bridge across the Quinnipiac River, mile 0.7, at New Haven, Connecticut, may keep one of the two movable spans closed from April 16, 2007 through September 27, 2007.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

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

Dated: April 6, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–7156 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–032]

Drawbridge Operation Regulations; Reynolds Channel, Lawrence, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Atlantic Beach Bridge across Reynolds Channel, mile 0.4, at Lawrence, New York. Under this temporary deviation a one-hour advance notice will be required for bridge openings from April 9, 2007 through April 27, 2007, between 7 a.m. and 3:30 p.m., daily. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from April 9, 2007 through April 27, 2007.

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

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Atlantic Beach Bridge across Reynolds Channel, mile 0.4, at Lawrence, New York, has a vertical clearance in the closed position of 25 feet at mean high water and 30 feet at mean low water. The existing operating regulations are listed at 33 CFR 117.799.

The bridge owner, Nassau County Bridge Authority, requested a temporary deviation to allow the bridge owner to require a one-hour advance notice for bridge openings to facilitate scheduled mechanical bridge maintenance.

Under this temporary deviation a one-hour advance notice shall be required for bridge openings at the Atlantic Beach Bridge from April 9, 2007 through April 27, 2007, between 7 a.m. and 3:30 p.m., daily.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

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

Dated: April 6, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–7155 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–06–050]

RIN 1625–AA09

Drawbridge Operation Regulation; Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway, Mile 1088.6, and Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulations governing the Venetian Causeway (West) drawbridge, Atlantic Intracoastal Waterway, mile 1088.6, and Venetian Causeway (East) drawbridge, Biscayne Bay, Miami, Miami-Dade County, Florida. This rule requires these drawbridges to open on signal, except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays the drawbridges will open on the hour and half-hour. This rule changes the Federal holiday dates and aligns them with all Federal holidays.

DATES: This rule is effective May 16, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD07–06–050) and are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131–3050 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Seventh Coast Guard District, Bridge Branch, telephone number 305–415–6744.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 3, 2006, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway, Mile 1088.6, and Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, FL in the **Federal Register** 71 FR 191. We received six comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The existing regulation of the Venetian Causeway (West) Drawbridge, Atlantic Intracoastal Waterway mile 1088.6, Miami, Miami-Dade County, Florida, requires the draw to open promptly and fully for the passage of vessels when a request to open is given. The existing regulation of the Venetian Causeway (East) Drawbridge, Biscayne Bay, Miami, Miami-Dade County, Florida, requires the draw to open on signal; except that from November 1 through April 30 from 7:15 a.m. to 8:45 a.m. and 4:45 p.m. to 6:15 p.m. Monday through Friday, the draw need not be opened. However, the draws shall open at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m. if any vessels are waiting to pass. The draw shall open on signal on Thanksgiving Day, Christmas Day, New Year's Day and Washington's Birthday. The draw shall open at any time for public vessels of the United States, tugs with tows, regularly scheduled cruise vessels, and vessels in distress.

The residents of Venetian Causeway requested the regulations of both drawbridges (East and West) be changed to allow for a 30-minute opening schedule from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays in order to relieve vehicular traffic delays.

On April 3, 2006, we published a test deviation entitled Drawbridge Operation Regulations; Venetian Causeway (West) drawbridge, Atlantic Intracoastal Waterway mile 1088.6, and Venetian Causeway (East) drawbridge, Biscayne Bay, Miami, Miami-Dade County, Florida in the **Federal Register** 71 FR 16492. We received eight comments all in favor of the test deviation.

On October 3, 2006, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** 71 FR 191. We received six comments on the proposed rule.

The current holiday listings for the Venetian Causeway (East) bridge have created confusion because they do not follow the Federal holiday schedule. This rule will align the Venetian Causeway (East) bridge to the Federal holiday schedule and eliminate the confusion.

Discussion of Comments and Changes

The Coast Guard received six responses to the notice of proposed rulemaking (NPRM). Five comments were for the proposed rule and one comment against the proposed rule.

The comment against the proposed rule stated that the East Venetian Drawbridge is too low and the half-hour schedule would cause an unreasonable restriction during the day.

The Coast Guard considered this comment and determined that the half-hour opening schedule will not cause an unreasonable delay as vessels will be able to time their transits during these opening periods.

No changes were made to the Final Rule.

Regulatory Evaluation

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

Although bridge openings will be less frequent, vessel traffic will still be able to transit the Intracoastal Waterway in the vicinity of the Venetian Causeway (East and West) bridges pursuant to the revised opening schedule.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels needed to transit the Intracoastal Waterway and Biscayne Bay in the vicinity of the Venetian Causeway (East and West) bridges, persons intending to drive over the bridges, and nearby business owners. The revision to the openings schedule would not have a significant impact on a substantial number of small entities. Vehicle traffic and small business owners in the area might benefit from the improved traffic flow that regularly scheduled openings will offer this area. Although bridge openings will be less frequent, vessel traffic will still be able to transit the Intracoastal Waterway in the vicinity of the Venetian Causeway (East and West) bridges pursuant to the revised opening schedule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement

Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about the rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); § 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. In § 117.261 revise paragraphs (nn) through (pp) to read as follows:

§ 117.287 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(nn) The Venetian Causeway Bridge (West), mile 1088.6, shall open on signal, except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge need only open on the hour and half-hour.

(oo) through (pp) [Reserved.]

* * * * *

■ 3. Revise § 117.269 to read as follows:

§ 117.269 Biscayne Bay.

The Venetian Causeway Bridge (East) shall open on signal, except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge need only open on the hour and half-hour.

Dated: March 19, 2007.

James Watson,

Captain, U.S.C.G., USCG District Seven Commander, Acting.

[FR Doc. E7–7157 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–035]

Drawbridge Operation Regulations; Chelsea River, Chelsea and East Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the P.J. McArdle Bridge across the Chelsea River at mile 0.3, between Chelsea and East Boston, Massachusetts. Under this temporary deviation, the bridge may remain in the closed position from 8 a.m. to 5 p.m., on June 16, 2007. Vessels that can pass under the draw without a bridge opening may do so at all times. This deviation is necessary to facilitate the annual Chelsea River Revel and 5K Road Race.

DATES: This deviation is effective on June 16, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The P.J. McArdle Bridge, across the Chelsea River at mile 0.3, between Chelsea and East Boston, Massachusetts, has a vertical clearance in the closed position of 21 feet at mean high water and 30 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.593.

The owner of the bridge, the City of Boston, requested a temporary deviation to facilitate the annual Chelsea River Revel and 5K Road Race. The bridge will not be able to open while this scheduled event is underway.

Under this temporary deviation, the P.J. McArdle Bridge need not open for the passage of vessel traffic between 8 a.m. and 5 p.m. on June 16, 2007. Vessels that can pass under the bridge without a bridge opening may do so at all times.

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

Dated: April 5, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–7152 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CCGD05–07–035]

RIN 1625–AA00

Safety Zone: Satellite Launch, NASA Wallops Flight Facility, Wallops Island, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U. S. Coast Guard is establishing a safety zone in support of a satellite rocket space launch originating from the Mid-Atlantic Regional Spaceport (MARS) Pad 0B launch complex. This action is intended to restrict vessel traffic within 12-nautical miles of Wallops Island, VA as described herein. This safety zone is necessary to facilitate the launch process and protect mariners from the hazards associated with the satellite launch.

DATES: This rule is effective from 2 a.m. April 21, 2007 until 5 a.m. April 24, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–07–035 and are available for inspection or copying at the U. S. Coast Guard Sector Hampton Roads, Norfolk Federal Building, 200 Granby St., Suite 700, Norfolk, VA, 23510 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Bill Clark, Waterways Management Division, U. S. Coast Guard Sector Hampton Roads, Virginia at (757) 668–5580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553(b)(B), a notice of proposed rulemaking (NPRM) was not published for this regulation as good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after **Federal Register** publication under 5 U.S.C. 553(d)(3). Any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public safety as immediate action is required to prevent vessel traffic from transiting through the navigable waters in the vicinity of the Wallops Island, Chincoteague Inlet, and those waters extending beyond the State of Maryland located within the boundaries of the safety zone.

Background and Purpose

On April 21, 2007, the National Aeronautics and Space Administration (NASA) will be attempting to launch a rocket carrying a spacecraft from Wallops Island, VA. Spectators are expected to be observing from both land and sea.

Vessel traffic in the vicinity of this location will be temporarily restricted while the safety zone is in effect and as described herein. The safety zone will be in effect from 2 a.m. on April 21, 2007 until 5 a.m. on April 24, 2007. This safety zone will be enforced from 2 a.m. until 5 a.m. each day the safety zone is in effect. If the launch occurs as planned on one of those days during this period, then the safety zone will no longer be enforced on subsequent days following the launch as identified in this paragraph.

To protect mariners and spectators from the hazards associated with the launch, and to protect the launch vehicle and equipment a warning signal will be displayed in accordance with 33 CFR 334.130(b)(3).

Discussion of Rule

The U.S. Coast Guard is establishing a regulated area that consists of a safety zone encompassing all navigable waters from 37°–48′–30″ N/075°–31′–58″ W on Northam Narrows to 37°–51′–30″ N/075°–28′–36″ W on Cat Creek. This regulated area will follow the Virginia coastal and inland shoreline from the aforementioned position in Cat Creek out to a point on the northeast tip of Wallops Island at 37°–53′–03″ N/075°–25′–05″ W, thence to a point on the southwest tip of Assateague Island at 37°–52′–28″N/075°–24′–20″ W, thence to a point on the southeast side of Assateague Island at 37°–51′–32″N/075°–22′–01″ W, thence easterly to a point on the United States territorial seas boundary line at 37°–47′–30″ N/075°–09′–55″ W. The regulated area will continue in a southerly direction along the United States territorial seas boundary line to a point at 37°–40′–56″ N/075°–21′–12″ W, thence westerly to a

point on Assawoman Island at 37°–47′–11″ N/075°–31′–34″ W, thence back again to the point of origin. The safety zone will be enforced from 2 a.m. until 5 a.m. on April 21, 2007 and every day there after at the same time until April 24, 2007 that the launch is attempted. After April 24, 2007 the regulated area will no longer be in effect. Except for participants and vessels authorized by the U. S. Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

Regulatory Evaluation

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

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

Although this regulation restricts access to the regulated area, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; and (ii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

However, this rule may affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in the described portion of the safety zone during the enforcement periods from 2 a.m. to 5 a.m. from April 21, 2007 until April 24, 2007. The safety zone will not have a significant impact on a substantial number of small entities, because the zone will only be in place for a few hours each day during the effective period and maritime advisories will be issued, so the mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Bill Clark, Chief, Waterways Management Division, Sector Hampton Roads at (757) 668–5580.

The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. An ''Environmental Analysis Check List'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–035, to read as follows:

§ 165.T05–035 Security Zone: Wallops Island, Virginia.

(a) *Location.* The following area is a safety zone: All navigable waters from 37°–48′–30″N/075°–31′–58″W on Northam Narrows to 37°–51′–30″N/075°–28′–36″W on Cat Creek, thence to a point following the Virginia coastal and inland shoreline to a point on the northeast tip of Wallops Island at 37°–53′–03″N/075°–25′–05″W, thence easterly to a point on the southwest tip of Assateague Island at 37°–52′–28″N/075°–24′–20″W, thence along the shoreline to a point on the southeast side of Assateague Island at 37°–51′–32″N/075°–22′–01″W, thence easterly to a point on the United States territorial seas boundary line at 37°–47′–30″N/075°–09′–55″W. The regulated area will continue in a southerly direction along the United States territorial seas boundary line to a point at 37°–40′–56″N/075°–21′–12″W, thence westerly to a point on Assawoman Island at 37°–47′–11″N/075°–31′–34″W, thence back again to the point of origin in the Captain of the Port, Hampton Roads, Virginia zone as defined in 33 CFR 3.25–10.

(b) *Definition.* As used in this section *Captain of the Port Representative:* Any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads and the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia can be contacted at telephone number (757) 668–5555 or (757) 484–8192.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM 13 and 16.

(d) *Effective Date.* This regulation is effective from 2 a.m. on April 21, 2007 until 5 a.m. on April 24, 2007.

Dated: April 4, 2007.

Patrick B. Trapp,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. E7–7183 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–33]

RIN 1625–AA00

Safety Zone; South Portland, ME, Gulf Blasting Project

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is reinstating the temporary safety zone around the blasting and dredging project near the Gulf Oil Terminal Berth in South Portland, Maine and around the M/V RELIANCE. These safety zones are needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this blasting and dredging project, which is being undertaken to increase the water depth of the Gulf Oil Terminal Berth to 41 feet. Entry into this safety zone is prohibited unless authorized by the Captain of the Port, Northern New England.

DATES: This rule is effective from 8 a.m. Eastern Daylight Time (EDT) April 2, 2007 until 11:59 p.m. Eastern Daylight Time (EDT) on April 15, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–012 and are available for inspection or copying at U.S. Coast Guard Sector Northern New England, 259 High Street, South Portland, ME 04106 between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Jarrett Bleacher, at (207) 741–5421.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 20, 2007, we enacted a Temporary Final Rule (TFR) entitled ''Safety Zone; South Portland, Maine, Gulf Blasting Project''. (72 FR 10360, March 8, 2007) The original effective period for this rule was from 7 a.m. Eastern Standard Time (EST) on February 20, 2007 until 4 p.m. Eastern Daylight Time (EDT) on March 31, 2007. In order to maintain the protection of persons, facilities, vessels and others in the maritime community from the safety hazards associated with this blasting and dredging project, as the blasting contractor has informed the Coast Guard that operations will not be completed within the scheduled timeframe, we find it necessary to reissue a temporary regulation establishing a safety zone

around the South Portland Maine, Gulf blasting project.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM because any delay encountered with this regulation would be contrary to public safety since the safety zone is needed to provide for the safety of life on navigable waters and to prevent traffic from transiting within the waters effected by this blasting and dredging project. The details of this project's continuation were not provided to the Coast Guard until March 22, 2007 making it impossible to publish a NPRM or a final rule 30 days in advance.

Similarly, Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest since continued action is necessary to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the handling, detonation, and transportation of explosives.

Background and Purpose

The explosives loading and blasting operations will continue to occur at various times during the period between March 31, 2007 and April 15, 2007. The blasting plan calls for the drilling, blasting, and dredging of various areas within the berthing area of the Gulf Oil Terminal in South Portland, Maine. The explosives loading will occur at East End Beach at the Eastern Promenade, Portland, Maine, or at the municipal boat ramp at Bug Light Park, South Portland, Maine. The explosives will be transported via truck aboard M/V RELIANCE to the Gulf Oil Terminal in South Portland where the blasting and dredging project will be conducted. This regulation establishes a moving safety zone in all waters of the Fore River and Casco Bay in a 100-yard radius around the M/V RELIANCE as it transits from the East End Beach or Bug Light Park to the Gulf Facility and from the Gulf Facility back to the East End Beach or Bug Light Park. It also establishes a 100-yard safety zone around the perimeter of the affected portion of the berthing area of the Gulf Oil Terminal while blasting operations are being conducted. This area is defined as all of the waters enclosed by a line starting from a point located at the western side of the Gulf Oil Terminal Dock at latitude 43°39′12.537″ N, longitude 70°14′25.923″ W; thence to latitude 43°39′10.082″ N, longitude 70°14′26.287″ W; thence to latitude 43°39′10.209″ N, longitude 70°14′27.910″ W; thence to latitude 43°39′12.664″ N, longitude 70°14′27.546″ W; thence to the point of beginning.(DATUM:NAD 83). These safety zones are required to protect the maritime community from the hazards associated with the loading, detonation, and transportation of explosives. Entry into this zone will be prohibited unless authorized by the Captain of the Port.

Discussion of Rule

This rule continues to provide for the safety of vessel traffic and the maritime public from the hazards associated with blasting operations on the designated waters in the Fore River. This TFR reinstates a temporary safety zone around the blasting and dredging project near the Gulf Oil Terminal Berth in South Portland.

This document restricts vessel traffic in various portions of the Fore River and Casco Bay while the M/V RELIANCE is in transit and around the perimeter of the affected portion of the Gulf Oil Terminal when blasting operations are taking place. Although the safety zone being reinstated will be in effect for two weeks, as before, it will only be enforced during actual transit and blasting times. Entry into those zones by any vessel is prohibited unless specifically authorized by the Captain of the Port, Northern New England.

The Captain of the Port anticipates negligible negative impact on vessel traffic from this temporary safety zone as it will be in effect only during transit and blasting operations. Blasting operations are anticipated to occur only two to three times per week between the hours of 7 a.m. and 4 p.m. The moving safety zone around the M/V RELIANCE will be enforced only during the transit of explosives to the site and from the site back to shore with unused explosives. The zone around the perimeter of the work site extends only minimally into the channel and will not affect vessels transiting in or out of the port. The zone around the worksite will be enforced only during the actual blasting times. The enhanced safety to life and property provided by this rule greatly outweighs any potential negative impacts. Public notifications will be made during the entire effective period of this safety zone via marine information broadcasts.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. The effect of this rule will not be significant for the following reasons: The safety zone will be enforced only during the transit of the M/V RELIANCE and during blasting operations. There is adequate room in the channel for vessels to transit during the blasting operations. Vessels will be permitted to transit and navigate in the effected waters when no blasting is taking place, minimizing any adverse impact. Additionally, extensive maritime advisories will be broadcast during the duration of the effective period.

Small Entities

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

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

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in the safety zone during this demolition event. However, this rule will not have a significant economic impact on a substantial number of small entities due to the minimal time that vessels will be restricted from the area, the ample space available for vessels to maneuver and navigate around the zone, and advance notifications will be made to the local community by marine information broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121]), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG Jarrett Bleacher at (207) 741–5421,

Sector Northern New England, Waterways Management Division.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any police or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

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

This rule fits the category selected from paragraph (34)(g), as it establishes a safety zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T01–012 to read as follows:

§ 165.T01–012 Safety Zone: Gulf Oil Terminal Dredging Project, South Portland, ME.

(a) *Location.* The following area is a safety zone: All waters of the Fore River and Casco Bay in a 100 yard radius around the M/V RELIANCE as it transits from the East End Beach or Bug Light Park to the Gulf Oil Terminal Facility and from the Gulf Oil Terminal Facility back to the East End Beach or Bug Light Park, while transporting explosives; and, all waters in a 100 yard radius around the perimeter of the berthing area of the Gulf Oil Terminal while blasting operations are being conducted. This area is defined as: All of the waters enclosed by a line starting from a point located at the western side of the Gulf Oil Terminal Dock at longitude 43°39′12.537″ N, longitude 70°14′25.923″ W; thence to latitude 43°39′10.082″ N, longitude 70°14′26.287″ W; thence to latitude 43°39′10.209″ N, longitude 70°14′27.910″ W; thence to latitude 43°39′12.664″ N, longitude

70°14′27.546″ W; thence to the point of beginning.(DATUM:NAD 83). All vessels are restricted from entering this area.

(b) *Effective Date.* This section is effective 8 a.m. April 2, 2007 until 11:59 p.m. on April 15, 2007.

(c) *Definitions.* (1) *Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) [Reserved]

(d) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the COTP, Northern New England or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone may contact the COTP or the COTP's designated representative at telephone number 207–767–0303 or on VHF Channel 13 (156.7 MHz) or VHF channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions given to them by the COTP or the COTP's designated representative.

Dated: April 2, 2007.

S.P. Garrity,

Captain, U.S. Coast Guard, Captain of the Port, Northern New England.

[FR Doc. E7–7187 Filed 4–13–07; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 41

[Docket No.: PTO–P–2005–0016]

RIN 0651–AB77

Revisions and Technical Corrections Affecting Requirements for *Ex Parte* and *Inter Partes* Reexamination

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice relating to *ex parte* and *inter partes* reexamination. The Office is designating the correspondence address for the patent as the correct address for all communications for patent owners in an *ex parte* reexamination or an *inter partes* reexamination, and simplifying the filing of reexamination papers by providing for the use of a single ''mail stop'' address for the filing of substantially all *ex parte* reexamination papers (such is already the case for *inter partes* reexamination papers). The Office is revising the rules to prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination proceeding without a showing of sufficient cause. Finally, the Office is making miscellaneous clarifying changes as to terminology and applicability of the reexamination rules. The Office is not implementing its proposal (that was set forth in the proposed rule making) to newly provide for a patent owner reply to a request for reexamination, prior to the Office's decision on the request.

DATES: *Effective Date:* May 16, 2007.

Applicability Date: The changes in this final rule apply to any reexamination proceeding (*ex parte* or *inter partes*) which is pending before the Office as of May 16, 2007 and to any reexamination proceeding which is filed after that date.

FOR FURTHER INFORMATION CONTACT: By telephone—Kenneth M. Schor, Senior Legal Advisor at (571) 272–7710; by mail addressed to U.S. Patent and Trademark Office, Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Kenneth M. Schor; by facsimile transmission to (571) 273–7710 marked to the attention of Kenneth M. Schor; or by electronic mail message (e-mail) over the Internet addressed to *kenneth.schor@uspto.gov.*

SUPPLEMENTARY INFORMATION: The Office is revising the rules of practice relating to *ex parte* and *inter partes* reexamination as follows:

I: Designating the correspondence address for the patent as the correct address for all notices, official letters, and other communications for patent owners in an *ex parte* reexamination or an *inter partes* reexamination. Also, simplifying the filing of reexamination papers by providing for the use of ''Mail Stop *Ex Parte* Reexam'' for the filing of all *ex parte* reexamination papers (not just *ex parte* reexamination requests), other than certain correspondence to the Office of the General Counsel.

II: Prohibiting supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause.

III: Making miscellaneous clarifying changes as to the terminology and applicability of the reexamination rules, and correcting inadvertent errors in the text of certain reexamination rules.

I. Reexamination Correspondence

Subpart 1—The Patent Owner's Address of Record: Section 1.33(c) has been revised to designate the correspondence address for the patent to be reexamined, or being reexamined, as the correct address for all notices, official letters, and other communications for patent owners in reexamination proceedings. Prior to this revision to § 1.33(c), all notices, official letters, and other communications for patent owners in a reexamination proceeding had been directed to the attorney or agent of record in the patent file at the address listed on the register of patent attorneys and agents maintained by the Office of Enrollment and Discipline (OED) pursuant to § 11.5 and § 11.11 (hereinafter, the ''attorney or agent of record register address'').

The correspondence address for any pending reexamination proceeding not having the same correspondence address as that of the patent is, by way of this revision to § 1.33(c), automatically changed to that of the patent file—as of the effective date of this Notice. For any such proceeding, it is strongly encouraged that the patent owner affirmatively file a Notification of Change of Correspondence Address in the reexamination proceeding and/or the patent to conform the address of the proceeding with that of the patent and to clarify the record as to which address should be used for correspondence. While the correspondence address change for the reexamination proceeding is automatically effected (by rule) even if the patent owner notification is not filed, such a patent owner notification clarifies the record, and addresses the possibility that, absent such a patent owner notification, correspondence may inadvertently be mailed to an incorrect address, causing a delay in the prosecution.

This revision to § 1.33(c) is based on the following: (1) Prior to the revision, the Office had received reexamination filings where the request had been served on the patent owner at the correspondence address under § 1.33(a) that was the correct address for the patent, rather than at the attorney or agent of record register address that was the previously prescribed (prior to the present rule revision) correspondence address in § 1.33(c) for use in reexamination. This occurred because the § 1.33(a) address was, and is, the address used for correspondence during

the pendency of applications, as well as post-grant correspondence in patents maturing from such applications. (2) Further, even if a potential reexamination requester realized that the attorney or agent of record register address was the proper patent owner address to use, patent practitioners occasionally move from one firm to another, and a potential reexamination requester was then faced with two (or more) § 1.33(c) addresses for the practitioners of record; the requester then had to decide which practitioner to serve. (3) Finally, the ''attorney or agent of record register address'' might not be kept up-to-date. In this regard, the OED regularly has mail returned because the register of patent attorneys and agents maintained pursuant to § 11.5 and § 11.11 is not up-to-date. On the other hand, a practitioner or patent owner was, and is, likely to be inclined to keep the § 1.33(a) address up-to-date for prompt receipt of notices regarding the patent. Thus, the correspondence address for the patent provides a better or more reliable option for the patent owner's address than does the address in the register of patent attorneys and agents maintained by OED pursuant to § 11.5 and § 11.11 (which was the reexamination address for the patent owner called for by § 1.33(c) prior to the present revision of § 1.33(c)).

As was pointed out in the notice of proposed rule making (*Revisions and Technical Corrections Affecting Requirements for Ex Parte and Inter Partes Reexamination*, 71 FR 16072 (March 30, 2006) 1305 *Off. Gaz. Pat. Office* 132 (April 25, 2006)), a change to the correspondence address may be filed with the Office during the enforceable life of the patent, and the correspondence address will be used in any correspondence relating to maintenance fees unless a separate fee address has been specified. See § 1.33(d). A review of randomly selected recent listings of *inter partes* reexamination filings reflected that all had an attorney or agent of record for the related patents. There were an average of 18.6 attorneys or agents of record for the patents, and for those attorneys or agents, an average of 3.8 addresses (according to the register of patent attorneys and agents maintained pursuant to § 11.5 and § 11.11). Although for half of the patents, all of the attorneys or agents had the same address, one patent had 77 attorneys and agents of record, and the register reflects 18 different addresses for these practitioners. In such a patent with many different attorneys and agents of record, and many of the practitioners in different states, mailing a notice related to a reexamination proceeding for the patent to the OED register address of an attorney or agent of record in the patented file, even the attorney or agent most recently made of record, is likely to result in correspondence not being received by the appropriate party (prior to the present rule change, the notice would have been mailed to the first-listed attorney or agent of record).

Since the correspondence address of the patent file is used for maintenance fee correspondence where a fee address is not specified, patent owners already have an incentive to keep the correspondence address for a patent file up-to-date. Given the choice of relying on either the correspondence address for the patent or the address for the attorney/agent of record per the register of patent attorneys and agents (as was the case prior to the present revision of § 1.33(c)), it is more reasonable to rely on the correspondence address for the patent. The patentee is responsible for updating the correspondence address for the patent, and if the patentee does not, then the patentee appropriately bears the risk of a terminated reexamination prosecution due to the failure to respond to an Office action sent to an obsolete address. Further, use of the correspondence address for the patent provides both a potential reexamination requester and the Office with one simple address to work with, and the requester and the Office should not be confused in the situations where attorneys move from firm to firm (as that has become more common). The correspondence address for the patent is available in public PAIR (Patent Application Information Retrieval) at the Office's Web site *www.uspto.gov*, so that a requester need only click on the address button for the patent, and he/she will know what address to use.

Subpart 2—Reexamination correspondence addressed to the Office: Section 1.1(c) is revised to prescribe the use of ''Mail Stop *Ex Parte* Reexam'' for the filing of all *ex parte* reexamination papers (not just *ex parte* reexamination requests), other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c).

In the final rule *Changes to Implement the 2002 Inter Partes Reexamination and Other Technical Amendments to the Patent Statute,* 68 FR 70996 (Dec. 22, 2003), 1278 *Off. Gaz. Pat. Office* 218 (Jan. 20, 2004), § 1.1(c) was amended to provide separate mail stops for *ex parte* reexamination proceedings and *inter partes* reexamination proceedings. As per that rule making, the mail stop for *ex parte* reexamination proceedings could only be used for the original request papers for *ex parte* reexamination. The new mail stop for *inter partes* reexamination, on the other hand, was to be used for both original request papers and all subsequent correspondence filed in the Office (other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c)), because the Central Reexamination Unit (CRU) was (and still is) the central receiving area for all inter partes reexamination proceeding papers. The CRU has now also become the central receiving area for all ex parte reexamination proceeding papers. Accordingly, the filing of ex parte reexamination papers is now simplified by revising § 1.1(c) to require the use of ''Mail Stop *Ex Parte* Reexam'' for the filing of all ex parte reexamination papers (original request papers and all subsequent correspondence), other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c). Correspondence relating to all reexamination proceedings is best handled at one central location where Office personnel have specific expertise in reexamination because of the unique nature of reexamination proceedings. That central location is the CRU.

II. To Prohibit Supplemental Patent Owner Responses to an Office Action Without a Showing of Sufficient Cause

The Office is amending § 1.945 to provide that a patent owner supplemental response (which can be filed to address a third-party requester's comments on patent owner's initial response to an Office action) will be entered only where the patent owner has made a showing of sufficient cause as to why the supplemental response should be entered.

Pursuant to § 1.937(b), an *inter partes* reexamination proceeding is ''conducted in accordance with §§ 1.104 through 1.116, the sections governing the application examination process * * * except as otherwise provided * * *'' Thus, a patent owner's response to an Office action is governed by § 1.111. Prior to the revision of § 1.111(a)(2) implemented via the final rule, *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan,* 69 FR 56482 (Sept. 21, 2004), 1287 *Off. Gaz. Pat. Office* 67 (Oct. 12, 2004) (final rule), a patent owner could file an unlimited number of supplemental responses to an Office action for an *inter partes* reexamination proceeding, thereby delaying prosecution. The changes to § 1.111(a)(2) made in the Strategic Plan final rule, in effect, addressed this

undesirable consequence of the rules in reexamination by providing that a reply (or response, in reexamination) which is supplemental to a § 1.111(b) compliant reply will not be entered as a matter of right (with the exception of a supplemental reply filed while action by the Office is suspended under § 1.103(a) or (c)).

Section 1.111(a)(2)(i), as implemented in the Strategic Plan final rule, provides that ''the Office may enter'' a supplemental response to an Office action under certain conditions. Whether or not the supplemental response should be entered, based on the individual circumstances for submission of a supplemental response is a question to be decided by the Office. In order to fully inform both the Office and the requester (so that the requester can provide rebuttal in its comments) as to why patent owner deems a supplemental response to be worthy of entry, § 1.945 has been revised to require a patent owner showing of sufficient cause why entry should be permitted to accompany any supplemental response by the patent owner. The showing of sufficient cause must provide: (1) A detailed explanation of how the criteria of § 1.111(a)(2)(i) is satisfied; (2) an explanation of why the supplemental response was not presented together with the original response to the Office action; and (3) a compelling reason to enter the supplemental response. It is to be noted that in some instances, where there is a clear basis for the supplemental response, this three-prong showing may be easily satisfied. Thus, for example, the patent claim text may have been incorrectly reproduced, where a patent claim is amended in the original response. In such an instance, the patent owner need only point to the § 1.111(a)(2)(i)(E) provision for correction of informalities (*e.g.*, typographical errors), and state that the incorrect reproduction of the claim was not noted in the preparation of the original response. The compelling reason to enter the supplemental response is implicit in such a statement, as the record for the proceeding certainly must be corrected as to the incorrect reproduction of the claim.

This revision permits the entry of a supplemental response to an Office action where there is a valid reason for it, and a showing to that effect is made by the patent owner. At the same time, it provides both the Office and the requester with notice of patent owner's reasons for desiring entry, and it permits the requester to rebut patent owner's stated position.

It is to be noted that any requester comments filed after a patent owner response to an Office action must be filed ''within 30 days after the date of service of the patent owner's response.'' 35 U.S.C. 314(b)(2). Thus, where the patent owner files a supplemental response to an Office action, the requester would be well advised to file any comments deemed appropriate within 30 days after the date of service of the patent owner's supplemental response to preserve requester's comment right, in the event the Office exercises its discretion to enter the supplemental response. (The requester's comments may address whether the patent owner showing is adequate, in addition to addressing the merits of the supplemental response.) If the patent owner's supplemental response is not entered by the Office, then both the supplemental response, and any comments following that supplemental response, will either be returned to parties or discarded as the Office chooses in its sole discretion. If the supplemental response and/or comments were scanned into the electronic Image File Wrapper (IFW) for the reexamination proceeding, and thus, the papers cannot be physically returned or discarded, then the supplemental response and/or comments entries will be marked ''closed'' and ''non-public,'' and they will not constitute part of the record of the reexamination proceeding. Such papers will not display in the Office's image file wrapper that is made available to the public, patent owners, and representatives of patent owners, *i.e.*, they will not display in PAIR (Patent Application Information Retrieval) at the Office's Web site *http://www.uspto.gov.*

III. Clarifying Changes as to Reexamination Rule Terminology and Applicability, and Correction of Inadvertent Errors in the Text of Certain Reexamination Rules

The Office is making miscellaneous clarifying changes as to the terminology and applicability of the reexamination rules. The rule changes of sub-parts 1 and 2 below were originally proposed in the *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan,* 68 FR 53816 (Sept. 12, 2003), 1275 *Off. Gaz. Pat. Office* 23 (Oct. 7, 2003) (proposed rule) (hereinafter the Strategic Plan Proposed Rule). The Office did not proceed with those changes in the final rule *Changes To Support Implementation of the United States Patent and Trademark Office* 21st Century Strategic Plan, 69 FR 56482 (Sept. 21, 2004), 1287 *Off. Gaz. Pat. Office* 67 (Oct. 12, 2004) (final rule) (hereinafter the Strategic Plan Final Rule). The Office then re-presented those proposals in *Revisions and Technical Corrections Affecting Requirements for Ex Parte and Inter Partes Reexamination,* 71 FR 16072 (March 30, 2006) 1305 *Off. Gaz. Pat.* Office 132 (April 25, 2006) (proposed rule) after further consideration and in view of the changes made by the final rule *Rules of Practice Before the Board of Patent Appeals and Interferences,* 69 FR 49960 (Aug. 12, 2004), 1286 Off. Gaz. Pat. Office 21 (Sept. 7, 2004) (final rule) (hereinafter, the Appeals final rule). The essential substance of the changes set forth in sub-parts 1 and 2, remains as originally proposed in the Strategic Plan Proposed Rule.

The four types (sub-parts) of revisions are explained as follows:

Sub-part 1. The rules are amended to clarify that ''conclusion'' of a reexamination ''proceeding'' takes place when the reexamination certificate is issued and published, while ''termination'' of the ''prosecution'' of the proceeding takes place when the patent owner fails to file a timely response in an *ex parte* or *inter partes* reexamination proceeding, or a Notice of Intent to Issue Reexamination Certificate (NIRC) is issued, whichever occurs first. This distinction is important, because a reexamination prosecution that is terminated may be reopened at the option of the Director where appropriate. For example, a rejection that was withdrawn during the proceeding may be reinstated after the prosecution has terminated, where the propriety of that rejection has been reconsidered. In contrast, a reexamination proceeding that has been concluded is not subject to being reopened. After the reexamination proceeding has been concluded, the Office is not permitted to reinstate the identical ground of rejection in a subsequent reexamination proceeding, when the same question of patentability raised by the prior art in the concluded proceeding is the basis of the rejection. See section 13105, part (a), of the Patent and Trademark Office Authorization Act of 2002, enacted in Public Law 107–273, 21st Century Department of Justice Appropriations Authorization Act, 116 Stat. 1758 (2002).

This distinction between terminating the prosecution of the reexamination proceeding, and the conclusion of the reexamination proceeding, was highlighted by the Federal Circuit decision of *In re Bass,* 314 F.3d 575, 577, 65 USPQ2d 1156, 1157 (Fed. Cir. 2003), wherein the court indicated that

Until a matter has been completed, however, the PTO may reconsider an earlier action. *See In re Borkowski,* 505 F.2d 713, 718, 184 USPQ 29, 32–33 (CCPA 1974). A reexamination is complete upon the statutorily mandated issuance of a reexamination certificate, 35 U.S.C. 307(a); the NIRC merely notifies the applicant of the PTO's intent to issue a certificate. A NIRC does not wrest jurisdiction from the PTO precluding further review of the matter.

Each of the Notice of Intent to Issue Reexamination Certificate cover sheet forms (*ex parte* reexamination Form PTOL 469 and *inter partes* reexamination Form PTOL 2068) specifically states (in its opening sentence) that ''[p]rosecution on the merits is (or remains) closed in this * * * reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office, or upon petition.'' This statement in both forms makes the point that the NIRC terminates the prosecution in the reexamination proceeding (if prosecution has not already been terminated, *e.g.*, via failure to respond), but does not (terminate or) conclude the reexamination proceeding itself. Rather, it is the issuance and publication of the reexamination certificate that concludes the reexamination proceeding. The rules are revised accordingly.

Definitional Consideration: In the Strategic Plan Proposed Rule, the terminology used was that a patent owner's failure to file a timely response in a reexamination proceeding (and the issuance of the NIRC) would ''conclude'' the prosecution of the reexamination proceeding, but would not terminate the reexamination proceeding, and the issuance and publication of a reexamination certificate would ''terminate'' the reexamination proceeding. This usage of ''conclude'' and ''terminate'' has been reconsidered, however, and the usage of the terms has been reversed to be consistent with the way the Office defines ''termination,'' as can be observed in the recent Appeals final rule (*supra.*). It is to be noted that the patent statute, in 35 U.S.C. 307(a), states for *ex parte* reexamination: ''In a reexamination proceeding under this chapter, when the time for appeal has expired or any appeal proceeding has *terminated,* the Director will issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any proposed amended or new claim determined to be patentable.'' (Emphasis added). 35 U.S.C. 316 contains an analogous statement for *inter partes* reexamination. Thus, after the appeal proceeding in the reexamination is terminated (which terminates the prosecution in the reexamination), the reexamination proceeding is concluded by the issuance and publication of the reexamination certificate.

It is further observed that in the Appeals final rule, § 1.116(c) states that ''[t]he admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the * * * reexamination prosecution from termination under § 1.550(d) or § 1.957(b) * * *.'' The use of ''termination of the prosecution'' is consistent with the presentation in § 1.116(c) in the Appeals final rule. As a further indication in the Appeals final rule, § 1.197(a) discusses the passing of jurisdiction over an application or patent under *ex parte* reexamination proceeding to the examiner after a decision by the Board of Patent Appeals and Interferences, and § 1.197(b) then states that ''[p]roceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except * * *.'' Thus, the termination (of the appeal) does not signify the completion of an application or reexamination proceeding. Rather, the application then continues until patenting or abandonment, and the reexamination continues until issuance (and publication) of the reexamination certificate; at that point these proceedings are concluded.

The above changes are directed to §§ 1.502, 1.530(l)(2), 1.550, 1.565(d), 1.570, 1.902, 1.953, 1.957, 1.958, 1.979, 1.991, 1.997, and 41.4.

Sub-part 2. The reexamination rules are revised to state that the reexamination certificate is ''issued and published.'' Prior to this revision, the rules referred to the issuance of the reexamination certificate, but failed to refer to the publication of the certificate.

Pursuant to 35 U.S.C. 307(a), ''when the time for appeal has expired or any appeal proceeding has terminated, the Director will *issue and publish* a certificate * * *'' (emphasis added) for an *ex parte* reexamination proceeding. Likewise, for an *inter partes* reexamination, 35 U.S.C. 316(a) states that ''when the time for appeal has expired or any appeal proceeding has terminated, the Director shall *issue and publish* a certificate'' (emphasis added). Any reexamination proceeding is concluded when the reexamination certificate has been issued and published. It is at that point in time that the Office no longer has jurisdiction over the patent that has been reexamined. Accordingly, the titles of §§ 1.570 and 1.997, as well as paragraphs (b) and (d), are now revised to track the language of 35 U.S.C. 307 and 35 U.S.C. 316, and refer to both issuance and publication, to thereby make it clear in the rules when the reexamination proceeding is concluded. The other reexamination rules containing language referring to the issuance of the reexamination certificate are likewise revised. These changes are directed to §§ 1.502, 1.530, 1.550, 1.565(c), 1.570, 1.902, 1.953, 1.957, 1.979, and 1.997.

Sub-part 3. In § 1.137, the introductory text of paragraphs (a) and (b) previously stated ''a reexamination *proceeding* terminated under §§ 1.550(d) or 1.957(b) or (c).'' [Emphasis added]. As pointed out in the discussion of the first sub-part, when the patent owner fails to timely respond, it is actually the *prosecution* of the reexamination that is terminated under § 1.550(d) for *ex parte* reexamination, or is terminated under § 1.957(b) for *inter partes* reexamination. For the § 1.957(c) scenario, however, the *prosecution* of the *inter partes* reexamination proceeding is not terminated when the patent owner fails to timely respond pursuant to § 1.957(c). Rather, an Office action is issued to permit the third party requester to challenge the claims found patentable (as to any matter where the requester has preserved the right of such a challenge), and the prosecution is ''limited to the claims found patentable at the time of the failure to respond, and to any claims added thereafter which do not expand the scope of the claims which were found patentable at that time.'' Section 1.957(c). Accordingly, the introductory text of § 1.137(a), and that of § 1.137(b), is now revised to provide for the situation where the prosecution is ''limited'' pursuant to § 1.957(c) (and the prosecution of the reexamination is not ''terminated''). Also, § 1.137(e) is revised consistently with § 1.137(a) and § 1.137(b). Further, conforming changes are made to §§ 1.8 and 41.4, which are revised to contain language that tracks that of §§ 1.137(a) and 1.137(b).

It is noted that § 1.957(c) does, in fact, result in the ''terminating'' of reexamination prosecution as to the non-patentable claims (under § 1.957(b), on the other hand, prosecution is terminated *in toto*). It would be confusing, however, to refer to a termination of reexamination prosecution in the § 1.957(c) scenario, since the limited termination as to the

non-patentable claims could easily be confused with the termination of the entirety of the prosecution of § 1.957(b). Accordingly, the § 1.957(c) ''limited'' scope of prosecution to the scope of the claims found patentable is the language deemed better suited for use in the rules.

Sub-part 4. Section 1.8(b) is revised to explicitly provide a remedy for an *inter partes* reexamination proceeding where correspondence was mailed or transmitted in accordance with paragraph § 1.8(a) by a patent owner, and pursuant to § 1.957(c), the reexamination prosecution is not terminated, but is rather ''limited to the claims found patentable at the time of the failure to respond, and to any claims added thereafter which do not expand the scope of the claims which were found patentable at that time.'' Pursuant to the previous version of § 1.8(b), a remedy was provided for having correspondence considered to be timely filed, where correspondence was mailed or transmitted in accordance with paragraph § 1.8(a) but not timely received in the Office, and ''the application [was] held to be abandoned or the proceeding is dismissed, *terminated*, or decided with prejudice.'' [Emphasis added.] It could have appeared that § 1.8(b) did not apply to the § 1.957(c) scenario where prosecution is ''limited'' rather than ''terminated.'' Therefore, § 1.8(b) is revised to explicitly apply the § 1.8(b) remedy in the § 1.957(c) scenario as well.

In addition, the certificate of mailing and transmission is available to a third party requester filing papers in an *inter partes* reexamination. See MPEP 2624 and 2666.05. Just as a § 1.8(b) remedy is (and was) provided for the patent owner in the § 1.957(b) and § 1.957(c) scenarios, § 1.8(b) is now revised to explicitly provide a remedy for the requester in the § 1.957(a) scenario.

Sub-part 5. The final rule *Rules of Practice Before the Board of Patent Appeals and Interferences* 69 FR 49960 (Aug. 12, 2004), 1286 *Off. Gaz. Pat. Office* 21 (Sept. 7, 2004) (final rule) revised the reexamination appeal rules to remove and reserve §§ 1.961 to 1.977. In addition, §§ 1.959, 1.979, 1.993 were revised and new §§ 41.60 through 41.81 were added. Revisions of some of the reexamination rules referring to these sections were inadvertently not made, and have now been made via this Notice. Further, §§ 1.510(f) and 1.915(c) are revised to change § 1.34(a) to § 1.34, to update the two sections to conform with the revision of § 1.34 made in final rule *Revision of Power of Attorney and Assignment Practice* 69 FR 29865 (May 26, 2004) (final rule).

In addition, in the final rule *Clarification of Filing Date Requirements for Ex Parte and Inter Partes Reexamination Proceedings*, 71 FR 44219 (Aug. 4, 2006) (final rule), the following errors appear. At page 44222, it is stated:

> ''If after receiving a 'Notice of Failure to Comply with * * * Reexamination Request Filing Requirements,' the requester does not remedy the defects in the request papers that are pointed out, then the request papers will not be given a filing date, *and a control number will not be assigned* * * *. If any identified non-compliant item has not been corrected, then a filing date (*and a control number*) will not be assigned to the request papers.'' [Emphasis added]

The Office will, however, be assigning control numbers and receipt dates to requests for reexamination that are not compliant with the reexamination filing date requirements. Thus, the text should read, and is hereby corrected to read:

> ''If after receiving a 'Notice of Failure to Comply with * * * Reexamination Request Filing Requirements,' the requester does not remedy the defects in the request papers that are pointed out, then the request papers will not be given a filing date. The simplest case * * *. If any identified non-compliant item has not been corrected, then a filing date will not be assigned to the request papers.''

Comments Received: The Office published a notice proposing the changes to *ex parte* and *inter partes* reexamination practice for comment. See *Revisions and Technical Corrections Affecting Requirements for Ex Parte and Inter Partes Reexamination*, 71 FR 16072 (March 30, 2006) 1305 *Off. Gaz. Pat. Office* 132 (April 25, 2006) (hereinafter, the ''Revisions and Technical Corrections proposed rule''). In response to the Revisions and Technical Corrections proposed rule, the Office received four sets of written comments—one from an intellectual property organization, two from corporations, and one from a law firm. There were no comments received from individual patent practitioners or others.

The following four proposals were set forth in the Revisions and Technical Corrections proposed rule:

Proposal I: To newly provide for a patent owner reply to a request for an *ex parte* reexamination or an *inter partes* reexamination prior to the examiner's decision on the request.

Proposal II: To prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of cause.

Proposal III: To designate the correspondence address for the patent as the correct address for all notices, official letters, and other communications for patent owners in an *ex parte* reexamination or an *inter partes* reexamination. Also, to simplify the filing of reexamination papers by providing for the use of ''Mail Stop *Ex parte* Reexam'' for the filing of all *ex parte* reexamination papers (not just *ex parte* reexamination requests), other than certain correspondence to the Office of the General Counsel.

Proposal IV: To make miscellaneous clarifying changes as to the terminology and applicability of the reexamination rules, and to correct inadvertent errors in the text of certain reexamination rules.

After reviewing the comments, this notice of final rule making: (a) Adopts Proposals II—IV of the Revisions and Technical Corrections proposed rule for revision of the rules of practice, while making only stylistic and non-substantive changes to the relevant rules, which changes are discussed below, and (b) does not adopt Proposal I of the Revisions and Technical Corrections proposed rule.

The comments taking issue with the proposals, and the Office's responses to those comments, now follow. Comments generally in support of a change that has been adopted are only discussed in some instances.

I. Comments as to Proposal I of the Revisions and Technical Corrections Proposed Rule

Proposal I, as set forth in the Revisions and Technical Corrections proposed rule, was to newly provide for a patent owner reply to a request for reexamination, prior to the Office's decision on the request. Comments against implementing the proposal in any form, were advanced by a major intellectual property organization and one of the two corporations that commented on the proposal. One comment, which was advanced by the other corporation that commented, was in favor of implementing the proposal even more liberally in favor of the patent owner than was proposed.

1. The corporate comment in favor of implementation of Proposal I: This comment states that commenter believes this proposed rule change allows for greater input from involved parties before an Examiner determines whether reexamination should be declared, and that the greater input would further the goal of a fair and efficient, well-informed reexamination. The comment further states that the proposed rule change would allow patentees to inform the Patent Office of facts that may bear upon the decision on the reexamination

request, such as the outcome of litigation involving prior art submitted to the Patent Office with the request, and other relevant factors.

The comment then goes on to request ''further clarification and certain modifications to the proposed rule change.'' The commenter urges that patent owner's reply to a Director-ordered examination should be allowed. The commenter asserts that the discarding/returning of a non-compliant patent owner reply to a request for reexamination (without a chance for re-submission) seems unduly harsh, and is unlike other Office rules that allow a submission to be corrected if not in proper form. The commenter further requests that various options as to relief from the 50-page limit for the reply be implemented. Finally, the commenter suggests implementation of the Electronic Filing System (EFS) to expedite submission of the reply to the request.

2. *The intellectual property organization comment opposed to implementation of Proposal I:* The commenter points out that evidence has not been proffered to suggest a need for a patent owner to have an opportunity to reply to a request for reexamination before a decision has been made by the Office. It is asserted that no evidence has been advanced as to granted reexaminations that should not have been granted based on incomplete/inaccurate information, or because of the allegedly low statutory threshold of a ''substantial new question of patentability'' to order reexamination, or because of an examiner inexperienced in reexamination practices. The commenter later provides a statistical analysis to show that the Office's reexamination statistics do not justify implementation of Proposal I without such evidence.

The comment states that the Office has made a substantial improvement in the handling of reexamination proceedings by creating the new Central Reexamination Unit (CRU) dedicated to these proceedings, resulting in better management of reexamination proceedings, more timely, detailed and thorough Office actions, and an increase of the quality of the work product. Given this, it seems premature to introduce the opportunity for a patent owner to file a reply before the Office makes a decision on the request before it is determined that the expertise being applied in the new reexamination unit will not avoid or at least minimize any problem that is identified. In addition, there is a concern that placing additional and perhaps unnecessary burdens on the new CRU will inhibit either the quality or special dispatch of the work being performed by the CRU.

The comment identifies a ''significant concern with the proposed practice * * * that it has the potential to significantly alter the balance between the patent owner and a third party in *ex parte* reexaminations in further favor of the patent owner.'' The comment continues,—''The *ex parte* reexamination proceeding is recognized as being one that is biased heavily in favor of the patent owner by excluding participation by the third party after the request is filed (unless the patent owner files a statement after the request is granted that would trigger only one additional opportunity for the third party to reply to any statement filed by the patent owner) * * *. [U]nder the proposal, the patent owner effectively would have an opportunity to file a patent owner's statement before the PTO decision on the request and thereafter exclude the third party from further participation in the proceeding by simply not filing any patent owner's statement.'' The comment concludes that the Office ''should not bias the *ex parte* proceeding in further favor of the patent owner, and should not take steps that will create additional and unnecessary burdens on the reexamination unit that are likely to further weaken the incentives for third parties to provide useful information relevant to patentability to the [Office].'' The commenter then adds that ''[e]ven in an *inter partes* proceeding, we are not aware of any justification for unnecessarily adding to the burdens of the reexamination unit or providing opportunities for the patent owner to delay the initiation of *inter partes* reexamination.''

3. The corporate comment opposed to implementation of Proposal I: The comment points out some generally favorable aspects of Proposal I, but counters with a recognition that ''the impact of the issuance and enforcement of potentially invalid patents [is] so detrimental to the public as to warrant giving the requester every opportunity to proffer prior art to the Office for its consideration even though some inefficiencies may result.'' Commenter expresses a concern that ''permitting the patent owner to respond to the requester's comments before a reexamination determination is made'' could ''have the additional unintended affect [*sic*, effect] of going beyond merely addressing whether or not there is a substantial new question of patentability, thus discouraging third party requesters from using the reexamination process.'' The commenter notes the potential that the proposal ''will delay the issuance of orders because of the time spent by the examiner in reviewing the patent owner's comments. It will also begin an unofficial 'mini' reexamination proceeding before the examiner actually has made a decision to order reexamination. That is, it will be difficult for the examiner to avoid considering why the subject matter as claimed was not anticipated or rendered obvious by the prior art cited in the request in view of the patent owner's reply before the order granting reexamination is made. This will result in the discouraging of third party requester's [sic] from utilizing the reexamination process because of the perception that the Office may unintentionally address 'the merits' rather than merely determining whether or not the requester raised a substantial new question of patentability.'' The commenter expresses a final concern that ''allowing patent owner comments may actually cause an increase in petition filings. Ultimately, this churn between the Office and the requester could create a different source of Office delays as well as expense for the requester before the order even issues.'' The commenter further states: ''Particularly for requests worthy of proceeding to reexamination, the Office should take care to ensure that patent owner's response does not delay issuance of the order and reexamination process.''

Proposal I is not adopted for the detailed reasons set forth in the intellectual property organization and corporate comments opposed to implementation of Proposal I. Reexamination practice will, however, in the future be re-evaluated to determine whether this proposal should be reconsidered at a later date.

The corporate comment opposed to implementation of Proposal I provided suggestions to address some of its concerns, and these will now be addressed. The suggestions include strictly limiting the patent owner's response with review to ensure that the patent owner does not ''comment on the merits, rather than just the issue of whether a new question of patentability is raised'' and ''placing a high burden on the patent holder to overcome a request, such as by clear and convincing evidence.'' Such suggestions, however, would unduly complicate and prolong the reexamination proceeding with a requirement for a highly subjective determination as to what would be, or would not be, prohibited in a patent owner's direct reply to a reexamination request.

The commenter that favored implementing Proposal I suggested implementing the proposal more liberally in favor of the patent owner than was proposed by the Office. Such points are, however, moot, as the proposal is not being adopted. The following is also added with respect to the suggestions made. As to the assertion that the discarding/returning of a non-compliant patent owner reply without a chance for re-submission is unlike other Office rules that allow a submission to be corrected if not in proper form, in this instance there is a three-month statutory period running against the Office to decide the request. A reply correction cycle would make it unduly burdensome for the Office to comply with the three-month statutory mandate. As to the various options as to liberalizing the 50-page limit for the reply suggested by commenter, this too would impact on the Office's ability to comply with the three-month statutory mandate.

As to the suggestion for a patent owner reply to a Director-ordered reexamination, the following is observed: After reexamination is ordered at the initiative of the USPTO Director, the patent owner does in fact have the right to reply via a patent owner's statement under § 1.530. This right of ''reply'' takes place before the proceeding enters into the examination stage, and is essentially what the commenter is requesting. As to a notification to patent owner prior to reexamination being ordered at the initiative of the USPTO Director, which the commenter also refers to, there is no official proceeding at that point in which to notify the patent owner of the intent to initiate a reexamination. Also, if such a notice of intent to initiate a reexamination were issued as suggested by the commenter, that would be tantamount to ordering reexamination since a substantial new question of patentability would be needed in each case. The effect would be the same as initiating reexamination followed by a patent owner's statement under § 1.530 filed prior to the examination stage of the proceeding, which is provided for in the current practice. Further, the suggestion also is subject to the above-discussed concerns raised in the intellectual property organization and corporate comments opposed to implementation of Proposal I.

II. Comments as to Proposal II of the Revisions and Technical Corrections Proposed Rule

Proposal II, as set forth in the Revisions and Technical Corrections proposed rule, was to prohibit a supplemental patent owner response to an Office action (which can be filed to address a third party requester's comments on patent owner's initial response to an Office action) without an adequate showing of sufficient cause for entry. This would be implemented by revising § 1.945. Three comments addressed this proposal.

1. The law firm comment expresses a belief that the proposed revision to § 1.945 would achieve the Office's purpose of (1) providing assistance to the Office in exercising its discretion to enter supplemental replies pursuant to § 1.111(a)(2) in *inter partes* reexamination proceedings, and (2) discouraging patent owners from filing superfluous supplemental replies that delay the proceedings. The commenter, however, raises certain concerns as to the proposal.

Commenter correctly points out that, pursuant to the proposal, the showing of sufficient cause would be required to provide: (1) A detailed explanation of how the criteria of § 1.111(a)(2)(i) is satisfied; (2) an explanation of why the supplemental response could not have been presented together with the original response to the Office action; and (3) a compelling reason to enter the supplemental response. The commenter then asserts that an explanation of why the supplemental response ''could not'' have been presented together with the original response is not workable. The commenter suggests use of ''was not'' in place of ''could not'' to address the concern. This point is well taken and is adopted. Once the patent owner explains why the supplemental response ''was not'' presented together with the original response, the Office can evaluate the reason in terms of the equities it provides. Thus, if the patent owner was reasonably not aware of a certain fact or circumstance that generated patent owner's basis for the supplemental response, that will be a factor to be balanced against the delay in the proceeding and additional resources to be expended by the requester and the Office.

Commenter also asserts that there is no guidance of what would be a ''compelling reason'' to enter the supplemental response.

This point is addressed here in terms of equities. A patent owner would need to show that its position would be prejudiced by the lack of entry of a supplemental response in a way that cannot be addressed later in the proceeding, and that the adverse effect on patent owner is significant enough to counter-balance the delay in the proceeding and additional resources to be expended by the requester and the Office. Thus, if the patent owner simply was not aware of an argument, or even rebuttal art, that the requester submitted in commenting on the Office action and patent owner's response, a supplemental response will not be entered for the purpose of addressing the argument, or rebuttal art. The purpose of the response is to respond to the Office action, not to reply to the requester or to reshape the patent owner's response after obtaining requester's input. Likewise, if the purpose of the supplemental response is merely to reconfigure claims without making a material change to the substance, or to add some claims for additional scope of protection, such would not provide a compelling reason.

2. The intellectual property organization comment supports implementation of Proposal II. Commenter, however, requests clarification as follows: ''If a patent owner files a supplemental response to a PTO action in an *inter partes* reexamination proceeding, we understand that it must be accompanied by a showing of sufficient cause. We further understand that the filing of that supplemental response, whether or not accompanied by an appropriate showing and whether or not the PTO ultimately enters the supplemental response, will trigger an opportunity for the third party to file written comments that may address both the supplemental response and any showing of sufficient cause. Please confirm whether our understanding is correct.''

In response, the following is provided. It is mandated by statute that any requester comments filed after a patent owner response to an Office action must be filed ''within 30 days after the date of service of the patent owner's response.'' 35 U.S.C. 314(b)(2). Thus, where the patent owner files a supplemental response to an Office action, the requester would be well advised to file any comments deemed appropriate (to address the merits and/or showing of sufficient cause) within 30 days after the date of service of the patent owner's supplemental response, in case the Office exercises its discretion to enter the supplemental response. If the supplemental response is not entered, both the supplemental response and any comments following that supplemental response will either be returned to parties or discarded as the Office chooses in its sole discretion. If the supplemental response and/or comments were scanned into the electronic Image File Wrapper (IFW) for the reexamination proceeding, and thus, the papers cannot be physically returned or discarded, then the

supplemental response and/or comments entries will be marked ''closed'' and ''non-public,'' and they will not constitute part of the record of the reexamination proceeding. Such papers will not display in the Office's image file wrapper that is made available to the public, patent owners, and representatives of patent owners, *i.e.*, they will not display in PAIR at the Office's Web site *http://www.uspto.gov*.

3. One of the two corporate comments opposes Proposal II. Commenter states that '' 'compelling reasons' for entering a supplemental reply is not the standard set by sections 111(a)(2)(i)(A)–(F), and no justification has been suggested for why a patentee should be subjected to such an obstacle. We submit that the undefined but presumably considerable 'compelling reason' standard is unnecessary, and will unfairly prevent patentees from presenting information to the Patent Office that will assist in achieving a correct outcome in reexaminations. This will reduce the quality and reliability of reexamination decisions, and thus this proposed rule should not be implemented.''

The comment is noted, but it is not persuasive in view of the following: Sections 1.111(a)(2)(i)(A) through (a)(2)(i)(F) were implemented with a focus on applications for patents, in which the prosecution is *ex parte*. For reexamination, however, there is a unique statutory mandate for special dispatch, which calls for measures to minimize delays in the proceeding. In an *ex parte* reexamination proceeding, delay brought about by a supplemental patent owner response can be acceptable where the delay is insignificant, in order to achieve the benefits to which the commenter alludes. In *inter partes* reexamination, however, each time the patent owner supplementally responds, the requester may, be statute, respond within a given time period; the Office must then process a whole new set of papers for the parties. Accordingly, the delay in *inter partes* reexamination is magnified, when the patent owner supplementally responds. The potential for extension of the prosecution each time the patent owner files a supplemental patent owner response is unique to *inter partes* reexamination, and will not be permitted without sufficient cause having been shown.

The Office has been receiving supplemental patent owner responses purporting to meet the conditions of § 1.111(a)(2)(i)(F), which have resulted in undue delays in the proceedings, requiring the Office to evaluate whether such supplemental responses comply with any of the provisions of §§ 1.111(a)(2)(i)(A) through (a)(2)(i)(F).

Furthermore, the reexamination statute gives the third party requester an absolute right to file comments on the patent owner's response. Accordingly, the Office is forced to evaluate two sets of papers from each party, causing yet further delay. In addition, the Office has seen patent owners file multiple supplemental responses causing dramatic delays in the administrative process (a typical situation is discussed in the next paragraph). While it is not uncommon for adverse parties to want to have ''the last word,'' the Office needs to set reasonable limits in order to control the administrative process, as well as comply with the statutory mandate for special dispatch in *inter partes* reexamination.

A typical situation is as follows. A patent owner wishes to respond to the requester's comments on the patent owner's response, and the patent owner thus files a supplemental response to address the requester's comments. The requester may then choose to supplementally comment on patent owner's supplemental response. Multiple iterations of patent owner responses addressing requester comments followed by further requester comments may then take place. The Office has experienced this situation in a number of proceedings, and the Office has needed to address each set of supplemental responses and supplemental comments—to first ascertain why patent owner filed the supplemental response and the equities presented by the parties, and then to decide whether to either close from public view (or return) the papers, or to enter them, and the Office must perform all the attendant processing. The present rule revision requires the patent owner to state, up front, the basis for seeking entry of a supplemental response, and it gives the requester an opportunity for rebuttal. This provides the Office with a mechanism for immediately weeding out any inappropriate supplemental response. Also, the requirement that patent owner provide the basis for entry will alert the patent owner to situations where no appropriate basis exists, such that patent owner will realize it should not make a submission. This will save (a) the patent owner the effort of making the submission, only to have it returned, (b) the requester the effort of making a supplemental comment, only to have it returned, and (c) the Office from having to expend the resources to address and process the submissions.

It is further to be noted that, in a litigation setting, the courts have established controls to limit the extent of briefing, and the Office is likewise justified in limiting the parties' responses to an Office action. Moreover, regardless of how many patent owner responses are permitted, it should be noted that the *inter partes* reexamination statute (35 U.S.C. 314) specifically contemplates that the requester has the right to respond to every patent owner submission, thereby giving the requester ''the last word.'' There is no intent in the statute to provide the patent owner with a chance to file a ''last word'' supplemental response to address the requester's comments. Indeed, 35 U.S.C. 314(b)(2) ends the iteration of addressing the Office action by stating that ''the third-party requester shall have one opportunity to file written comments addressing issues raised by the action of the Office or the patent owner's response thereto.'' As a final point, 35 U.S.C. 314(b)(1) provides the patent owner with the ability *to respond to what the Office action says,* not to the requester's comments, and that continues to be available in the proceeding. Such is the statutory framework for providing prosecution by parties, while, at the same time, maintaining the requirement for special dispatch in the *inter partes* reexamination proceeding.

Proposal II has been adopted in revised form—an explanation is required as to why the supplemental response ''was not'' presented together with the original response to the Office action, rather than the proposed explanation of why the supplemental response ''could not'' have been presented.

III. Comments as to Proposal III of the Revisions and Technical Corrections Proposed Rule

The second part of Proposal III, as set forth in the Revisions and Technical Corrections, was to simplify the filing of reexamination papers by providing for the use of ''Mail Stop *Ex Parte* Reexam'' for the filing of all *ex parte* reexamination papers (not just *ex parte* reexamination requests), other than certain correspondence to the Office of the General Counsel. No issues were raised by the comments as to that part of Proposal III.

The first part of Proposal III, as set forth in the Revisions and Technical Corrections proposed rule, was to designate the correspondence address for the patent as the correct address for all notices, official letters, and other communications for patent owners in a reexamination. It was that part of Proposal III that was commented upon.

1. One of the corporate comments supports the Proposal II rule change as to the designation of the correspondence address for the patent as the correct address for communications for patent owners in a reexamination, and recognizes the need to ease the burden on the Office in corresponding with patent owners in reexamination proceedings. Commenter, however, strongly encourages the Office to promptly post all correspondence electronically since ''the correspondence address will be the only address used for mailings by the Office'' under the proposal, ''and no double correspondence will be sent.''

In response, all correspondence for a reexamination proceeding is in fact promptly posted electronically in the Office's Image File Wrapper (IFW) for that proceeding, and is available via the Office's public PAIR (Patent Application Information Retrieval) system. One of the benefits resulting from the Office's somewhat recent creation of the Central Reexamination Unit is that reexamination correspondence is now mailed by a central unit dedicated solely to reexamination, which is in a position to ensure prompt entry of correspondence into the IFW.

2. The intellectual property organization comment likewise supports Proposal III. Commenter, however, identifies a concern that ''the Office states that it will automatically change the correspondence address to that of the patent file.'' Commenter suggests that, despite the rule revision, the correspondence address of the patent owner and any third party, should be maintained by the Office as ''whatever correspondence address has been established,'' and ''a specific requirement of the patent owner to comply with the adopted regulation'' should be made. This suggestion is presented to reduce ''the risk of termination of the prosecution of a reexamination proceeding by sending correspondence to the patent owner at an address different than has already been established in the pending reexamination proceeding.''

This suggestion is not adopted; however, for *inter partes* reexamination proceedings, an accommodation will be made by the Office as is discussed below. Retaining the old attorney or agent of record register address as that of the patent owner's correspondence address in the face of the rule change which mandates otherwise can only lead to uncertainty and confusion. This would result in a situation where some correspondence addresses are done one way and others are done another way. Third party requesters would be placed in a quandary as to which address to serve. The same would be true for parties serving papers under MPEP 2286 or 2686 (notifications of existence of prior or concurrent proceedings). Retaining the address used for correspondence in the reexamination proceeding different from that used during the pendency of applications (as well as post-grant correspondence in patents maturing from such applications) will also make it difficult for members of the public reviewing the patent and its associated files and materials. Furthermore, searching out all the instances where the correspondence address would be in need of a change in view of the ''adopted regulation'' in order to send the suggested ''specific requirement of the patent owner to comply with the adopted regulation'' would place a huge and undue burden on Office resources. The *ex parte* reexamination data captured by the Office through Sept. 30, 2006, will be used to illustrate this. There are 1,944 *ex parte* reexamination proceedings pending. The Office would need to check to see which of the 8,252 total *ex parte* reexamination proceedings are the 1,944 pending reexamination proceedings. Then, Notices would need to be sent out for all of them, and the Office would also need to do the PALM work. For *inter partes* reexamination proceedings, however, there are approximately 200 pending proceedings. Accordingly, the Office intends to issue, in the near future, a notice in all pending *inter partes* reexamination proceedings, notifying the parties about this rule change and the patent owner's correct address. It is to be noted that requester paper service on patent owner occurs far more often in *inter partes* reexamination, than such service on patent owner in *ex parte* reexamination. Thus, the major impact of commenter's concern in this area has been addressed.

IV. Proposal IV has been adopted as it was proposed—none of the comments took issue with any aspect of this proposal.

Section-by-Section Discussion

Section 1.1: Section 1.1(c)(1) is amended to provide for use of ''Mail Stop *Ex Parte* Reexam'' for the filing of all *ex parte* reexamination papers other than certain correspondence to the Office of the General Counsel. Paragraph (c)(1) of § 1.1(c) has been changed from its prior reading ''Requests for *ex parte* reexamination (original request papers only) should be additionally marked 'Mail Stop *Ex Parte* Reexam' '' to now read ''Requests for *ex parte* reexamination (original request papers) and all subsequent *ex parte* reexamination correspondence filed in the Office, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c), should be additionally marked 'Mail Stop *Ex Parte* Reexam.' ''

Section 1.8: Section 1.8(b) is amended to recite ''In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the * * * Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence * * * or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:''. The language ''the prosecution of a reexamination proceeding is terminated'' (for § 1.550(d) and § 1.957(b)) clarifies that the reexamination proceeding is not concluded under § 1.550(d) or § 1.957(b), but rather, the prosecution of the reexamination is terminated. The language ''or the prosecution of a reexamination proceeding is * * * limited pursuant to § 1.957(c)'' more appropriately sets forth that the § 1.8(b) remedy is applied to avoid the § 1.957(c) consequences of a patent owner's failure to respond in an *inter partes* reexamination. The language ''or a requester paper is refused consideration pursuant to § 1.957(a)'' more appropriately sets forth that the § 1.8(b) remedy is applied to avoid the § 1.957(a) consequences of a failure to file a requester paper in an *inter partes* reexamination.

Section 1.17: Sections 1.17(l) and (m) are revised to clarify that a reexamination proceeding is not concluded under § 1.550(d) or § 1.957(b), but rather, the prosecution of a reexamination is terminated under § 1.550(d) or § 1.957(b), or reexamination prosecution is limited under § 1.957(c). No change is made as to the fee amounts.

Section 1.33: Section 1.33(c) is revised to replace the prior recitation of ''the attorney or agent of record (see § 1.32(b)) in the patent file at the address listed on the register of patent attorneys and agents maintained pursuant to §§ 11.5 and 11.11 or, if no attorney or agent is of record, to the patent owner or owners at the address or addresses of record'' with ''correspondence address.'' As § 1.33(c) is now revised, all notices, official

letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address for the patent. As previously discussed, a change to the correspondence address may be filed with the Office during the enforceable life of the patent.

Section 1.137: Sections 1.137(a), (b), and (e) are amended to more appropriately set forth the § 1.550(d) and § 1.957(b) consequences of the patent owner's failure to make a required response. To do so, the introductory text of § 1.137(a) and § 1.137(b) is now revised to recite ''a reexamination *prosecution* becoming terminated under §§ 1.550(d) or 1.957(b)'' (emphasis added), rather than the previous recitation of ''a reexamination *proceeding* becoming terminated under §§ 1.550(d) or 1.957(b)'' (emphasis added). In § 1.137(e), ''a terminated *ex parte* reexamination prosecution'' and ''a terminated *inter partes* reexamination prosecution or an *inter partes* reexamination limited as to further prosecution'' are inserted in place of the previous recitation of ''a terminated *ex parte* reexamination proceeding'' and ''a terminated *inter partes* reexamination proceeding,'' respectively.

Sections 1.137(a), (b) and (e) are amended to clarify that the reexamination proceedings under § 1.957(c) referred to in § 1.137 are limited as to further prosecution; the prosecution is not terminated. To make this clarification, the introductory text portions of § 1.137(a) and § 1.137(b) are revised to recite that the prosecution is ''limited under § 1.957(c),'' rather than ''terminated.'' Section 1.137(e) is revised to also refer to ''revival'' of ''an *inter partes* reexamination limited as to further prosecution.'' The heading of § 1.137 is also revised to add ''limited.''

Section 1.502: Section 1.502 is amended to state that the ''reexamination proceeding'' is ''concluded by the issuance and publication of a reexamination certificate.'' That is the point at which citations (having an entry right in the patent) that were filed after the order of *ex parte* reexamination will be placed in the patent file.

Section 1.510: Section 1.510(f) is revised to change § 1.34(a) to § 1.34. This change updates the section to conform to the revision of § 1.34 made in *Revision of Power of Attorney and Assignment Practice*, 69 FR 29865 (May 26, 2004) (final rule).

Section 1.530: Section 1.530(a) is amended to provide for the disposition of the unauthorized paper being explicitly set forth in the § 1.530(a), *i.e.*, the paper will be returned or discarded at the Office's option. This explicit recitation of the Office's discretion was proposed at the last line of the discussion of § 1.530(a) in the Section-by-Section analysis of the proposed rule making notice and was not commented on. If the unauthorized paper was scanned into the electronic Image File Wrapper (IFW) for the reexamination proceeding, and thus, the paper cannot be physically returned or discarded, then the unauthorized paper entry will be marked ''closed'' and ''non-public,'' and it will not constitute part of the record of the reexamination proceeding. Such papers will not display in the Office's image file wrapper that is made available, via PAIR, to the public, patent owners, and representatives of patent owners.

Section 1.530(k) is amended to state that proposed amendments in *ex parte* or *inter partes* reexamination are not effective until the reexamination certificate is both ''issued and published'' to conform § 1.530(k) with the language of 35 U.S.C. 307. Sections 1.530(l)(1) and (l)(2) are amended to delete the references to ''1.977'' and add instead ''1.997.'' This corrects the prior reference to non-existent § 1.977. In addition, § 1.530(l)(2) is revised to recite that the reexamination proceeding is ''concluded'' by a reexamination certificate under § 1.570 or § 1.997, as opposed to ''terminated,'' which applies to a reexamination prosecution.

Section 1.550: Section 1.550(d) is amended to recite that ''[i]f the patent owner fails to file a timely and appropriate response to any Office action or any written statement of an interview required under § 1.560(b), the prosecution in the *ex parte* reexamination proceeding will be a terminated prosecution, and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.570 * * *.'' This makes it clear that the patent owner's failure to timely file a required response (or interview statement) will result in the ''terminating of prosecution of the reexamination proceeding,'' but will not ''conclude the reexamination proceeding.'' It is to be noted that the prosecution will be a terminated prosecution as of the day after the response was due and not timely filed. In this instance, the Notice of Intent to Issue Reexamination Certificate (NIRC) will be subsequently issued; however, it will not be the instrument that operates to terminate the prosecution, since that will have already automatically occurred upon the failure to respond. Further, ''issued and published'' is used to conform § 1.550(d) to the language of 35 U.S.C. 307.

Section 1.565: Section 1.565(c) is amended to set forth that merged (consolidated) *ex parte* reexamination proceedings will result in the ''issuance and publication'' of a single certificate under § 1.570. As pointed out above, this tracks the statutory language. Section 1.565(d) is further amended to make it clear that the issuance of a reissue patent for a merged reissue-reexamination proceeding effects the conclusion of the reexamination proceeding. This is distinguished from the termination of the reexamination prosecution, as pointed out above. As a further technical change, ''consolidated'' in the prior version of § 1.565(c) is revised to now recite ''merged,'' for consistency with the terminology used in § 1.565(d). There is no difference in the meaning of the two terms, and the use of different terms in the two subsections was confusing. In addition, in § 1.565(d), the prior recitation of ''normally'' is replaced by ''usually'' (''normally'' was an inadvertent inappropriate choice of terminology). The same term (''usually'') would be added to § 1.565(c). As was pointed out in the Notice of Proposed Rule Making, there are instances where the Office does not merge (consolidate) an ongoing *ex parte* reexamination proceeding with a subsequent reexamination or reissue proceeding, which are addressed on a case-by-case basis. The following examples are again set forth. If the prosecution in an ongoing *ex parte* reexamination proceeding has terminated (*e.g.*, a Notice of Intent to Issue Reexamination Certificate has issued), the *ex parte* reexamination proceedings will generally not be merged (consolidated) with a subsequent reexamination proceeding or reissue application. If an ongoing *ex parte* reexamination proceeding is ready for decision by the Board of Patent Appeals and Interferences, or is on appeal to the U.S. Court of Appeals for the Federal Circuit, it would be inefficient (and contrary to the statutory mandate for special dispatch in reexamination) to ''pull back'' the ongoing *ex parte* reexamination proceeding for merger with a subsequent reexamination proceeding or reissue application. As a final example, an ongoing *ex parte* reexamination proceeding might be directed to one set of claims for which a first accused infringer (with respect to the first set) has filed the ongoing request for reexamination. A later reexamination request might then be directed to a different set of claims for

which a second accused infringer (with respect to the second set) has filed the request. In this instance, where there are simply no issues in common, merger would serve only to delay the resolution of the first proceeding without providing any benefit to the public (this would run counter to the statutory mandate for ''special dispatch'' in reexamination proceedings). If reexamination is to act as an effective alternative to litigation, the ability to decide the question of whether to merge/consolidate based on the merits of a particular fact pattern must be, and is, reserved to the Office.

Section 1.570: The heading of § 1.570 and § 1.570(a) are amended to make it clear that the issuance and publication of the *ex parte* reexamination certificate ''concludes'' the reexamination ''proceeding.'' The failure to timely respond, or the issuance of the NIRC, terminate prosecution, but do not conclude the reexamination proceeding. For consistency with the language of 35 U.S.C. 307, § 1.570, paragraphs (b) and (d), are amended to recite that the reexamination certificate is both ''issued and published.''

Section 1.902: Section 1.902 is amended to state that the ''reexamination proceeding'' is ''concluded by the issuance and publication of a reexamination certificate.'' That is the point at which citations (having a right to entry in the patent) that were filed after the order of *inter partes* reexamination will be placed in the patent file.

Section 1.915: Section 1.915(c) is revised to change the prior recitation of ''§ 1.34(a)'' to § 1.34. This change updates the section to conform to the revision of § 1.34 made in *Revision of Power of Attorney and Assignment Practice*, 69 FR 29865 (May 26, 2004) (final rule).

Section 1.923: In the first sentence of § 1.923, the prior recitation of ''§ 1.919'' is changed to ''§ 1.915,'' since it is § 1.915 that provides for the request; § 1.919 provides for the filing date of the request.

Section 1.945: Prior to the present revision, § 1.945 provided that ''[t]he patent owner will be given at least thirty days to file a response to any Office action on the merits of the *inter partes* reexamination.'' Section 1.945 is now revised to address the filing of a supplemental response to an Office action. Any supplemental response to an Office action will be entered only where the supplemental response is accompanied by a showing of sufficient cause why the supplemental response should be entered. The showing of sufficient cause must provide: (1) A detailed explanation of how the requirements of § 1.111(a)(2)(i) are satisfied; (2) an explanation of why the supplemental response was not presented together with the original response to the Office action; and (3) a compelling reason to enter the supplemental response.

Where the patent owner files a supplemental response to an Office action, the requester may file its comments under § 1.947 within 30 days after the date of service of the patent owner's supplemental response, in order to preserve requester's statutory comment right, in the event the Office exercises its discretion to enter the supplemental response. (The comments may address the merits of the proceeding and/or the adequacy of the showing of sufficient cause why the supplemental response should be entered.) If the requester fails to file comments, and the Office enters the supplemental response after 30 days from its filing, the requester will be statutorily barred from commenting at this stage, because, pursuant to 35 U.S.C. 314(b)(2), any requester comments filed after a patent owner response to an Office action must be filed ''within 30 days after the date of service of the patent owner's response.'' If the requester files comments and the patent owner's supplemental response is not entered by the Office, then both the supplemental response, and any comments following that supplemental response, will either be returned to the parties or discarded as the Office chooses in its sole discretion. If the supplemental response and/or comments were scanned into the electronic Image File Wrapper (IFW) for the reexamination proceeding, and thus, the papers cannot be physically returned or discarded, then the supplemental response and/or comments entries will be marked ''closed'' and ''non-public,'' and they will not constitute part of the record of the reexamination proceeding. Such papers will not display in the Office's image file wrapper that is made available, via PAIR, to the public, patent owners, and representatives of patent owners.

The decision on the sufficiency of the showing will not be issued until after receipt of requester comments under § 1.947 on the supplemental response, or the expiration of the 30-day period for requester comments (whichever comes first). The decision will be communicated to the parties either prior to, or with, the next Office action on the merits, as is deemed appropriate for the handling of the case.

A showing of sufficient cause will not be established by an explanation that the supplemental response is needed to address the requester's comments (on patent owner's response), and could not have been presented together with the original response because it was not known that requester would raise a particular point. The *inter partes* reexamination statute (35 U.S.C. 314) provides for the patent owner to respond to an Office action, and the requester to comment on that response. There is no intent in the statute to provide the patent owner with a chance to file a supplemental response to address the requester's comments. Indeed, 35 U.S.C. 314(b)(2) ends the iteration of addressing the Office action by stating that ''the third-party requester shall have one opportunity to file written comments addressing issues raised by the action of the Office or the patent owner's response thereto.''

As pointed out above, no corresponding rule revision is needed in *ex parte* reexamination, since there is no third party requester comment on a patent owner response (that a patent owner will wish to address), and § 1.111(a)(2) adequately deals with patent owner supplemental responses.

Section 1.953: The prior version of § 1.953(b) stated: ''Any appeal by the parties shall be conducted in accordance with §§ 1.959–1.983.'' This reference to §§ 1.959 through 1.983 is not correct, as some of the referenced rules had been deleted and others added. Instead of revising the incorrect reference, the entire sentence has been deleted as being out of place in § 1.953, which is not directed to the appeal process, but is rather directed to an Office action notifying parties of the right to appeal. Section 1.953(c) is amended to state that if a notice of appeal is not timely filed after a Right of Appeal Notice (RAN), then ''prosecution in the *inter partes* reexamination proceeding will be terminated.'' This will not, however, conclude the reexamination proceeding.

Section 1.956: The subheading preceding § 1.956 is amended to refer to termination of the prosecution of the reexamination, rather than the termination or conclusion of the reexamination proceeding, since termination of the prosecution of the reexamination is what the sections that follow address. It is § 1.997 (Issuance of *Inter Partes* Reexamination Certificate) that deals with conclusion of the reexamination proceeding.

Section 1.957: Section 1.957(b) is amended to recite that ''[i]f no claims are found patentable, and the patent owner fails to file a timely and

appropriate response * * *, the prosecution in the reexamination proceeding will be *a terminated prosecution*, and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.997 * * *.'' (Emphasis added). This makes it clear that the patent owner's failure to timely file a required response, where no claim has been found patentable, will result in the terminating of prosecution of the reexamination proceeding, but will not conclude the reexamination proceeding. As previously discussed for *ex parte* reexamination, the prosecution will be a terminated prosecution as of the day after the response was due and not timely filed. In this instance, the NIRC will be subsequently issued; however, it will not be the instrument that operates to terminate the prosecution, since that will have already automatically occurred upon the failure to respond. Also, ''issued and published'' is used to conform § 1.550(d) to the language of 35 U.S.C. 316.

Section 1.958: The heading of § 1.958 is amended to refer to the termination of prosecution of the reexamination, rather than the termination or conclusion of the reexamination proceeding, since that is what the rule addresses.

Section 1.979: Section 1.979(b) is amended to recite that ''[u]pon judgment in the appeal before the Board of Patent Appeals and Interferences, if no further appeal has been taken (§ 1.983), the prosecution in the *inter partes* reexamination proceeding will be terminated and the Director will issue and publish a certificate under § 1.997 concluding the proceeding.'' This makes it clear that the termination of an appeal for an *inter partes* reexamination proceeding will result in a terminating of prosecution of the reexamination proceeding if no other appeal is present, but will not conclude the reexamination proceeding. Rather, it is the reexamination certificate under § 1.997 that concludes the reexamination proceeding.

In addition, the title of § 1.979 is amended to add ''appeal'' before proceedings, and thus recite ''Return of Jurisdiction from the Board of Patent Appeals and Interferences; termination of appeal proceedings.'' This makes it clear that it is the appeal proceedings that are terminated; the reexamination proceeding is not terminated or concluded.

Section 1.983: In § 1.983(a), the prior incorrect reference to § 1.979(e) is changed to recite the correct reference: § 41.81.

Section 1.989: Section 1.989(a) is amended to set forth that consolidated (merged) reexamination proceedings containing an *inter partes* reexamination proceeding will result in the issuance and publication of a single certificate under § 1.570. As pointed out above, this tracks the statutory language.

Section 1.991: In § 1.991, ''and 41.60–41.81'' is added to the previously recited ''§§ 1.902 through 1.997,'' since §§ 41.60–41.81 provide the requester with participation rights. Further, § 1.991 is amended to make it clear that the issuance of a reissue patent for a merged reissue-reexamination proceeding effects the conclusion of the reexamination proceeding. This is distinguished from the termination of the reexamination prosecution, as pointed out above.

Section 1.997: Both the heading of § 1.997 and § 1.997(a) are amended to make it clear that the issuance and publication of the *inter partes* reexamination certificate effects the conclusion of the reexamination proceeding. The failure to timely respond, or the issuance of the NIRC, does not conclude the reexamination proceeding. Section 1.997(a) is also revised to make its language consistent with that of § 1.570(a). For consistency with the language of 35 U.S.C. 316, Section 1.997, paragraphs (b) and (d), are amended to recite that the reexamination certificate is both issued and published.

Section 41.4: Paragraph (b) of § 41.4 is amended to (1) recite to ''a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b)'' rather than the prior recitation of ''a reexamination proceeding becoming terminated under §§ 1.550(d) or 1.957(b),'' and (2) refer to the prosecution as being ''limited'' under § 1.957(c) rather than ''terminated'' under § 1.957(c). These changes track those made in § 1.137; see the discussion of § 1.137.

Rule Making Considerations

Regulatory Flexibility Act: For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes implemented in this notice will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). The Office has issued between about 150,000 and 190,000 patents each year during the last five fiscal years. The Office receives fewer than 100 requests for *inter partes* reexamination each year. The principal impact of the changes in this final rule is to prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause.

The change in this final rule to prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause will not have a significant economic impact on a substantial number of small entities for two reasons. First, assuming that all patentees in an *inter partes* reexamination are small entities and that all would have submitted a supplemental response without sufficient cause, the change would impact fewer than 100 small entity patentees each year. Second, there is no petition or other fee for the showing of sufficient cause that would be necessary under the implemented change for a supplemental patent owner's response to an Office action in an *inter partes* reexamination.

Therefore, the changes implemented in this notice will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132: This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this notice have been reviewed and previously approved by OMB under OMB control numbers: 0651–0027, 0651–0031, 0651–0033, and 0651–0035. The United States Patent and Trademark Office is not resubmitting the other information collections listed above to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collections under these OMB control numbers. The principal impacts of the changes in this final rule are to: (1) Prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause, (2) designate the correspondence address for the patent as the correspondence address for all communications for patent owners in *ex*

parte and *inter partes* reexaminations, and (3) provide for the use of a single ''mail stop'' address for the filing of substantially all *ex parte* reexamination papers (as is already the case for *inter partes* reexamination papers).

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Patent and Trademark Office; and (2) Robert A. Clarke, Acting Director, Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses, and Biologics.

37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

■ For the reasons set forth in the preamble, 37 CFR parts 1 and 41 are amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

■ 2. Section 1.1 is amended by revising paragraph (c)(1) to read as follows:

§ 1.1 Addresses for non-trademark correspondence with the United States Patent and Trademark Office.

* * * * *

(c) * * *

(1) Requests for *ex parte* reexamination (original request papers) and all subsequent *ex parte* reexamination correspondence filed in the Office, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c), should be additionally marked ''Mail Stop *Ex Parte* Reexam.''

* * * * *

■ 3. Section 1.8 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 1.8 Certificate of mailing or transmission.

* * * * *

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:

* * * * *

■ 4. Section 1.17 is amended by revising paragraphs (l) and (m) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(l) For filing a petition for the revival of an unavoidably abandoned application under 35 U.S.C. 111, 133, 364, or 371, for the unavoidably delayed payment of the issue fee under 35 U.S.C. 151, or for the revival of an unavoidably terminated or limited reexamination prosecution under 35 U.S.C. 133 (§ 1.137(a)):

By a small entity (§ 1.27(a))—$250.00.

By other than a small entity—$500.00.

(m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated or limited reexamination prosecution under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity (§ 1.27(a))—$750.00.

By other than a small entity—$1,500.00.

* * * * *

■ 5. Section 1.33 is amended by revising paragraph (c) to read as follows:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

* * * * *

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken.

* * * * *

■ 6. Section 1.137 is amended by revising its heading, the introductory text of paragraph (a), the introductory text of paragraph (b), and paragraph (e) to read as follows:

§ 1.137 Revival of abandoned application, terminated or limited reexamination prosecution, or lapsed patent.

(a) *Unavoidable.* If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

* * * * *

(b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

* * * * *

(e) *Request for reconsideration.* Any request for reconsideration or review of a decision refusing to revive an abandoned application, a terminated or limited reexamination prosecution, or

lapsed patent upon petition filed pursuant to this section, to be considered timely, must be filed within two months of the decision refusing to revive or within such time as set in the decision. Unless a decision indicates otherwise, this time period may be extended under:

(1) The provisions of § 1.136 for an abandoned application or lapsed patent;

(2) The provisions of § 1.550(c) for a terminated *ex parte* reexamination prosecution, where the *ex parte* reexamination was filed under § 1.510; or

(3) The provisions of § 1.956 for a terminated *inter partes* reexamination prosecution or an *inter partes* reexamination limited as to further prosecution, where the *inter partes* reexamination was filed under § 1.913.

* * * * *

■ 7. Section 1.502 is revised to read as follows:

§ 1.502 Processing of prior art citations during an *ex parte* reexamination proceeding.

Citations by the patent owner under § 1.555 and by an *ex parte* reexamination requester under either § 1.510 or § 1.535 will be entered in the reexamination file during a reexamination proceeding. The entry in the patent file of citations submitted after the date of an order to reexamine pursuant to § 1.525 by persons other than the patent owner, or an *ex parte* reexamination requester under either § 1.510 or § 1.535, will be delayed until the reexamination proceeding has been concluded by the issuance and publication of a reexamination certificate. See § 1.902 for processing of prior art citations in patent and reexamination files during an *inter partes* reexamination proceeding filed under § 1.913.

■ 8. Section 1.510 is amended by revising paragraph (f) to read as follows:

§ 1.510 Request for *ex parte* reexamination.

* * * * *

(f) If a request is filed by an attorney or agent identifying another party on whose behalf the request is being filed, the attorney or agent must have a power of attorney from that party or be acting in a representative capacity pursuant to § 1.34.

■ 9. Section 1.530 is amended by revising paragraphs (a), (k) and (l) to read as follows:

§ 1.530 Statement by patent owner in *ex parte* reexamination; amendment by patent owner in *ex parte* or *inter partes* reexamination; inventorship change in *ex parte* or *inter partes* reexamination.

(a) Except as provided in § 1.510(e), no statement or other response by the patent owner in an *ex parte* reexamination proceeding shall be filed prior to the determinations made in accordance with § 1.515 or § 1.520. If a premature statement or other response is filed by the patent owner, it will not be acknowledged or considered in making the determination, and it will be returned or discarded (at the Office's option).

* * * * *

(k) Amendments not effective until certificate. Although the Office actions will treat proposed amendments as though they have been entered, the proposed amendments will not be effective until the reexamination certificate is issued and published.

(l) Correction of inventorship in an *ex parte* or *inter partes* reexamination proceeding.

(1) When it appears in a patent being reexamined that the correct inventor or inventors were not named through error without deceptive intention on the part of the actual inventor or inventors, the Director may, on petition of all the parties set forth in § 1.324(b)(1)–(3), including the assignees, and satisfactory proof of the facts and payment of the fee set forth in § 1.20(b), or on order of a court before which such matter is called in question, include in the reexamination certificate to be issued under § 1.570 or § 1.997 an amendment naming only the actual inventor or inventors. The petition must be submitted as part of the reexamination proceeding and must satisfy the requirements of § 1.324.

(2) Notwithstanding paragraph (1)(1) of this section, if a petition to correct inventorship satisfying the requirements of § 1.324 is filed in a reexamination proceeding, and the reexamination proceeding is concluded other than by a reexamination certificate under § 1.570 or § 1.997, a certificate of correction indicating the change of inventorship stated in the petition will be issued upon request by the patentee.

■ 10. Section 1.550 is amended by revising paragraph (d) to read as follows:

§ 1.550 Conduct of *ex parte* reexamination proceedings.

* * * * *

(d) If the patent owner fails to file a timely and appropriate response to any Office action or any written statement of an interview required under § 1.560(b), the prosecution in the *ex parte* reexamination proceeding will be a terminated prosecution, and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.570 in accordance with the last action of the Office.

* * * * *

■ 11. Section 1.565 is amended by revising paragraphs (c) and (d) to read as follows:

§ 1.565 Concurrent office proceedings which include an *ex parte* reexamination proceeding.

* * * * *

(c) If *ex parte* reexamination is ordered while a prior *ex parte* reexamination proceeding is pending and prosecution in the prior *ex parte* reexamination proceeding has not been terminated, the *ex parte* reexamination proceedings will usually be merged and result in the issuance and publication of a single certificate under § 1.570. For merger of *inter partes* reexamination proceedings, see § 1.989(a). For merger of *ex parte* reexamination and *inter partes* reexamination proceedings, see § 1.989(b).

(d) If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will usually be made to merge the two proceedings or to suspend one of the two proceedings. Where merger of a reissue application and an *ex parte* reexamination proceeding is ordered, the merged examination will be conducted in accordance with §§ 1.171 through 1.179, and the patent owner will be required to place and maintain the same claims in the reissue application and the *ex parte* reexamination proceeding during the pendency of the merged proceeding. The examiner's actions and responses by the patent owner in a merged proceeding will apply to both the reissue application and the *ex parte* reexamination proceeding and will be physically entered into both files. Any *ex parte* reexamination proceeding merged with a reissue application shall be concluded by the grant of the reissued patent. For merger of a reissue application and an *inter partes* reexamination, see § 1.991.

* * * * *

■ 12. Section 1.570 is amended by revising its heading and paragraphs (a), (b) and (d), to read as follows:

§ 1.570 Issuance and publication of *ex parte* reexamination certificate concludes *ex parte* reexamination proceeding.

(a) To conclude an *ex parte* reexamination proceeding, the Director will issue and publish an *ex parte* reexamination certificate in accordance with 35 U.S.C. 307 setting forth the results of the *ex parte* reexamination proceeding and the content of the patent following the *ex parte* reexamination proceeding.

(b) An *ex parte* reexamination certificate will be issued and published in each patent in which an *ex parte* reexamination proceeding has been ordered under § 1.525 and has not been merged with any *inter partes* reexamination proceeding pursuant to § 1.989(a). Any statutory disclaimer filed by the patent owner will be made part of the *ex parte* reexamination certificate.

* * * * *

(d) If an *ex parte* reexamination certificate has been issued and published which cancels all of the claims of the patent, no further Office proceedings will be conducted with that patent or any reissue applications or any reexamination requests relating thereto.

* * * * *

■ 13. Section 1.902 is revised to read as follows:

§ 1.902 Processing of prior art citations during an *inter partes* reexamination proceeding.

Citations by the patent owner in accordance with § 1.933 and by an *inter partes* reexamination third party requester under § 1.915 or § 1.948 will be entered in the *inter partes* reexamination file. The entry in the patent file of other citations submitted after the date of an order for reexamination pursuant to § 1.931 by persons other than the patent owner, or the third party requester under either § 1.913 or § 1.948, will be delayed until the *inter partes* reexamination proceeding has been concluded by the issuance and publication of a reexamination certificate. See § 1.502 for processing of prior art citations in patent and reexamination files during an *ex parte* reexamination proceeding filed under § 1.510.

■ 14. Section 1.915 is amended by revising paragraph (c) to read as follows:

§ 1.915 Content of request for *inter partes* reexamination.

* * * * *

(c) If an *inter partes* request is filed by an attorney or agent identifying another party on whose behalf the request is being filed, the attorney or agent must have a power of attorney from that party or be acting in a representative capacity pursuant to § 1.34.

* * * * *

■ 15. Section 1.923 is revised to read as follows:

§ 1.923 Examiner's determination on the request for *inter partes* reexamination.

Within three months following the filing date of a request for *inter partes* reexamination under § 1.915, the examiner will consider the request and determine whether or not a substantial new question of patentability affecting any claim of the patent is raised by the request and the prior art citation. The examiner's determination will be based on the claims in effect at the time of the determination, will become a part of the official file of the patent, and will be mailed to the patent owner at the address as provided for in § 1.33(c) and to the third party requester. If the examiner determines that no substantial new question of patentability is present, the examiner shall refuse the request and shall not order *inter partes* reexamination.

■ 16. Section 1.945 is revised to read as follows:

§ 1.945 Response to Office action by patent owner in *inter partes* reexamination.

(a) The patent owner will be given at least thirty days to file a response to any Office action on the merits of the *inter partes* reexamination.

(b) Any supplemental response to the Office action will be entered only where the supplemental response is accompanied by a showing of sufficient cause why the supplemental response should be entered. The showing of sufficient cause must include:

(1) An explanation of how the requirements of § 1.111(a)(2)(i) are satisfied;

(2) An explanation of why the supplemental response was not presented together with the original response to the Office action; and

(3) A compelling reason to enter the supplemental response.

■ 17. Section 1.953 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.953 Examiner's Right of Appeal Notice in *inter partes* reexamination.

* * * * *

(b) Expedited Right of Appeal Notice: At any time after the patent owner's response to the initial Office action on the merits in an *inter partes* reexamination, the patent owner and all third party requesters may stipulate that the issues are appropriate for a final action, which would include a final rejection and/or a final determination favorable to patentability, and may request the issuance of a Right of Appeal Notice. The request must have the concurrence of the patent owner and all third party requesters present in the proceeding and must identify all of the appealable issues and the positions of the patent owner and all third party requesters on those issues. If the examiner determines that no other issues are present or should be raised, a Right of Appeal Notice limited to the identified issues shall be issued.

(c) The Right of Appeal Notice shall be a final action, which comprises a final rejection setting forth each ground of rejection and/or final decision favorable to patentability including each determination not to make a proposed rejection, an identification of the status of each claim, and the reasons for decisions favorable to patentability and/or the grounds of rejection for each claim. No amendment can be made in response to the Right of Appeal Notice. The Right of Appeal Notice shall set a one-month time period for either party to appeal. If no notice of appeal is filed, prosecution in the *inter partes* reexamination proceeding will be terminated, and the Director will proceed to issue and publish a certificate under § 1.997 in accordance with the Right of Appeal Notice.

■ 18. The undesignated center heading immediately preceding § 1.956 is revised to read as follows:

Extensions of Time, Terminating of Reexamination Prosecution, and Petitions To Revive in *Inter Partes* Reexamination

■ 19. Section 1.957 is amended by revising paragraph (b) to read as follows:

§ 1.957 Failure to file a timely, appropriate or complete response or comment in *inter partes* reexamination.

* * * * *

(b) If no claims are found patentable, and the patent owner fails to file a timely and appropriate response in an *inter partes* reexamination proceeding, the prosecution in the reexamination proceeding will be a terminated prosecution and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.997 in accordance with the last action of the Office.

* * * * *

■ 20. Section 1.958 is amended by revising its heading to read as follows:

§ 1.958 Petition to revive *inter partes* reexamination prosecution terminated for lack of patent owner response.

* * * * *

■ 21. Section 1.979 is amended by revising its heading and paragraph (b) to read as follows:

§ 1.979 Return of Jurisdiction from the Board of Patent Appeals and Interferences; termination of appeal proceedings.

* * * * *

(b) Upon judgment in the appeal before the Board of Patent Appeals and Interferences, if no further appeal has been taken (§ 1.983), the prosecution in the *inter partes* reexamination proceeding will be terminated and the Director will issue and publish a certificate under § 1.997 concluding the proceeding. If an appeal to the U.S. Court of Appeals for the Federal Circuit has been filed, that appeal is considered terminated when the mandate is issued by the Court.

■ 22. Section 1.983 is amended by revising paragraph (a) to read as follows:

§ 1.983 Appeal to the United States Court of Appeals for the Federal Circuit in *inter partes* reexamination.

(a) The patent owner or third party requester in an *inter partes* reexamination proceeding who is a party to an appeal to the Board of Patent Appeals and Interferences and who is dissatisfied with the decision of the Board of Patent Appeals and Interferences may, subject to § 41.81, appeal to the U.S. Court of Appeals for the Federal Circuit and may be a party to any appeal thereto taken from a reexamination decision of the Board of Patent Appeals and Interferences.

* * * * *

■ 23. Section 1.989 is amended by revising paragraph (a) to read as follows:

§ 1.989 Merger of concurrent reexamination proceedings.

(a) If any reexamination is ordered while a prior *inter partes* reexamination proceeding is pending for the same patent and prosecution in the prior *inter partes* reexamination proceeding has not been terminated, a decision may be made to merge the two proceedings or to suspend one of the two proceedings. Where merger is ordered, the merged examination will normally result in the issuance and publication of a single reexamination certificate under § 1.997.

* * * * *

■ 24. Section 1.991 is revised to read as follows:

§ 1.991 Merger of concurrent reissue application and *inter partes* reexamination proceeding.

If a reissue application and an *inter partes* reexamination proceeding on which an order pursuant to § 1.931 has been mailed are pending concurrently on a patent, a decision may be made to merge the two proceedings or to suspend one of the two proceedings. Where merger of a reissue application and an *inter partes* reexamination proceeding is ordered, the merged proceeding will be conducted in accordance with §§ 1.171 through 1.179, and the patent owner will be required to place and maintain the same claims in the reissue application and the *inter partes* reexamination proceeding during the pendency of the merged proceeding. In a merged proceeding the third party requester may participate to the extent provided under §§ 1.902 through 1.997 and 41.60 through 41.81, except that such participation shall be limited to issues within the scope of *inter partes* reexamination. The examiner's actions and any responses by the patent owner or third party requester in a merged proceeding will apply to both the reissue application and the *inter partes* reexamination proceeding and be physically entered into both files. Any *inter partes* reexamination proceeding merged with a reissue application shall be concluded by the grant of the reissued patent.

■ 25. Section 1.997 is amended by revising its heading and paragraphs (a), (b), and (d) to read as follows:

§ 1.997 Issuance and publication of *inter partes* reexamination certificate concludes *inter partes* reexamination proceeding.

(a) To conclude an *inter partes* reexamination proceeding, the Director will issue and publish an *inter partes* reexamination certificate in accordance with 35 U.S.C. 316 setting forth the results of the *inter partes* reexamination proceeding and the content of the patent following the *inter partes* reexamination proceeding.

(b) A certificate will be issued and published in each patent in which an *inter partes* reexamination proceeding has been ordered under § 1.931. Any statutory disclaimer filed by the patent owner will be made part of the certificate.

* * * * *

(d) If a certificate has been issued and published which cancels all of the claims of the patent, no further Office proceedings will be conducted with that patent or any reissue applications or any reexamination requests relating thereto.

* * * * *

PART 41—PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

■ 26. The authority citation for 37 CFR part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135.

■ 27. Section 41.4 is amended by revising paragraph (b) to read as follows:

§ 41.4 Timeliness.

* * * * *

(b) *Late filings.* (1) A late filing that results in either an application becoming abandoned or a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b) of this title or limited under § 1.957(c) of this title may be revived as set forth in § 1.137 of this title.

(2) A late filing that does not result in either an application becoming abandoned or a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b) of this title or limited under § 1.957(c) of this title will be excused upon a showing of excusable neglect or a Board determination that consideration on the merits would be in the interest of justice.

* * * * *

Dated: April 9, 2007.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E7–7202 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No.: PTO–T–2007–0005]

RIN 0651–AC11

Correspondence With the Madrid Processing Unit of the United States Patent and Trademark Office

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) revises the rules of practice to change the address for correspondence with the Madrid Processing Unit of the Office. The Office relocated to Alexandria, Virginia, in 2004, and hereby changes the address for correspondence with the Office relating to filings pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to an Alexandria, Virginia address.

DATES: *Effective Date:* The changes in this final rule are effective April 16, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Chicoski, Office of the Commissioner for Trademarks, (571) 272–8943, or via e-mail at *Jennifer.chicoski@uspto.gov.*

SUPPLEMENTARY INFORMATION: In connection with the relocation of the Office to Alexandria, Virginia, in 2004, the Office previously changed most of its correspondence addresses so that correspondence has been routed through a United States Postal Service (USPS) facility that is more conveniently located to the Office. A post office box had been retained in Arlington, Virginia, the previous location of the Office, for the acceptance of certain correspondence, including submissions to the Madrid Processing Unit (MPU) of the Office.

The Office has now made arrangements so that correspondence to the MPU may be routed to the Office at its current location. In connection with the address change, the USPS has provided a separate routing +4 zip code to distinguish mail for the MPU from other Office mail, and all correspondence to the MPU should now be sent to the Office's main headquarters, addressed with the separate routing +4 zip code.

The Office appreciates that it will take some period of time for all persons filing correspondence with the MPU to become accustomed to the address change. Although the address change is effective immediately, the Office plans to arrange for continued delivery of correspondence addressed to the MPU's former Arlington, Virginia 22215 address as a courtesy for a limited period of time. The Office cannot ensure the availability of the Arlington, Virginia Post Office Box for receipt of MPU correspondence after October 31, 2007.

The Office also is adding reference to a particular type of correspondence, requests to note replacements under § 7.28, that are presently not identified in the rule as being accepted by mail or via hand delivery, in order to clarify that the Office does accept such requests by mail or by hand during the hours the Office is open to receive correspondence.

Discussion of Specific Rules

The Office is amending §§ 2.190(e) and 7.4(b) to provide that international applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacement under § 7.28, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office's MPU, when filed by mail, must be addressed to: Madrid Processing Unit, 600 Dulany Street, MDE–7B87, Alexandria, VA 22314–5793. The Office is amending § 7.4(b)(2) to add that requests to note replacement under § 7.28, when filed by mail, will be accorded the date of receipt in the Office. The Office is amending § 7.4(c) to add requests to note replacement under § 7.28 to the list of correspondence that may be hand-delivered to the Office.

Rule Making Requirements

Administrative Procedure Act: Since this final rule is directed to changing the address for filing certain correspondence with the Office, this final rule merely involves rules of agency organization, procedure, or practice within the meaning of 5 U.S.C. 553(b)(A). Accordingly, this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. *See* 5 U.S.C. 603.

Executive Order 13132: This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This rule making does not create any new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number. The collection of this information has been approved by OMB under control number 0651–0055.

List of Subjects

37 CFR Part 2

Administrative practice and procedure, Trademarks.

37 CFR Part 7

Administrative practice and procedure, Trademarks, International Registration.

■ For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office is amending parts 2 and 7 of Title 37 of the Code of Federal Regulations, as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for part 2 continues to read:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 2. Amend § 2.190 by revising paragraph (e) to read as follows:

§ 2.190 Addresses for trademark correspondence with the United States Patent and Trademark Office.

* * * * *

(e) *Certain Documents Relating to International Applications and Registrations.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacements under § 7.28, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office's Madrid Processing Unit, when filed by mail, must be mailed to: Madrid Processing Unit, 600 Dulany Street, MDE–7B87, Alexandria, VA 22314–5793.

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

■ 3. The authority citation for part 7 continues to read:

Authority: 15 U.S.C. 1135, 35 U.S.C. 2, unless otherwise noted.

■ 4. Amend § 7.4 by revising paragraphs (b) introductory text, (b)(2) and (c) to read as follows:

§ 7.4 Receipt of correspondence.

* * * * *

(b) *Correspondence Filed By Mail.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacement under § 7.28, requests for transformation under § 7.31, and

petitions to the Director to review an action of the Office's Madrid Processing Unit, when filed by mail, must be addressed to: Madrid Processing Unit, 600 Dulany Street, MDE–7B87, Alexandria, VA 22314–5793.

(1) * * *

(2) Responses to notices of irregularity under § 7.14, requests to note replacement under § 7.28, and requests for transformation under § 7.31, when filed by mail, will be accorded the date of receipt in the Office.

(c) *Hand-Delivered Correspondence.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacement under § 7.28, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office's Madrid Processing Unit, may be delivered by hand during the hours the Office is open to receive correspondence. Madrid-related hand-delivered correspondence must be delivered to the Trademark Assistance Center, James Madison Building—East Wing, Concourse Level, 600 Dulany Street, Alexandria, VA 22314, Attention: MPU.

* * * * *

Dated: April 9, 2007.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E7–7116 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 414, 415, and 424

[CMS–1321–F2]

RIN 0938–AN84

Medicare Program; Revisions to Payment Policies, Five-Year Review of Work Relative Value Units, and Changes to the Practice Expense Methodology Under the Physician Fee Schedule, and Other Changes to Payment Under Part B; Correcting Amendment

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

ACTION: Correcting amendment.

SUMMARY: This correcting amendment corrects several technical and typographical errors in the final rule with comment period that appeared in the December 1, 2006 **Federal Register** (71 FR 69624). The final rule with comment period addressed Medicare Part B payment policy, including the physician fee schedule (PFS) that is applicable for calendar year (CY) 2007; payment for covered outpatient drugs and biologicals; payment for renal dialysis services; and policies related to independent diagnostic testing facilities (IDTFs). The final rule with comment period also updated the list of certain services subject to the physician self-referral prohibitions.

DATES: *Effective Date:* Pursuant to section 1871(e) of the Act, except for the corrections to § 410.33, this correcting amendment is effective January 1, 2007. The corrections to § 410.33 are effective April 16, 2007.

FOR FURTHER INFORMATION CONTACT: Diane Milstead, (410) 786–3355.

SUPPLEMENTARY INFORMATION:

I. Background

FR Doc. 06–9086 (71 FR 69624), the final rule with comment period entitled ''Medicare Program; Revisions to Payment Policies, Five-Year Review of Work Relative Value Units, and Changes to the Practice Expense Methodology Under the Physician Fee Schedule, and Other Changes to Payment Under Part B; Revisions to the Payment Policies of Ambulance Services Under the Fee Schedule for Ambulance Services; Ambulance Inflation Factor Update for CY 2007'' (hereinafter referred to as the CY 2007 PFS final rule with comment period), contained technical and typographical errors. Some of these technical and typographical errors were addressed in the correction notice that appeared in the December 8, 2006 **Federal Register** (71 FR 58415). Additional errors have been identified in the CY 2007 PFS final rule with comment period and are addressed in this correcting amendment.

II. Errors in the Preamble

A. Summary of Errors in the Preamble

In the preamble of the CY 2007 PFS final rule with comment period, there were a number of technical errors and omissions.

On page 69635, following the section heading titled, ''(vi) Equipment Cost Per Minute,'' there was an error in the formula for calculating the equipment cost per minute.

On page 69647, language was inadvertently omitted from the response concerning cardiac monitoring services.

On page 69654, in Table 5, ''Practice Expense Supply Item Additions for CY 2007'', we incorrectly included a supply item and failed to include the unit price of another item.

On page 69663, the word ''an'' was incorrectly typed to read ''as'' in two places.

On page 69671, the word ''not'' was incorrectly included in a sentence.

On page 69677, the word ''of'' was missing from a sentence.

On page 69688, under the section heading titled, ''d. ''ESRD Wage Index Tables,'' the references to addenda were incorrect.

On page 69696, the word ''supplier'' was misspelled.

On page 69699 in the narrative concerning revisions to the performance standards for IDTFs, we inadvertently omitted language specifying that paragraphs (g) and (h) are not applicable to those services included in § 410.33(a)(2). We also inadvertently included language requiring IDTFs to list serial numbers and that was not our intention.

On pages 69744, the narrative concerning Table 17 contained several errors.

On pages 69746, certain CPT codes were incorrectly included in Table 17.

On page 69747, we incorrectly included a discussion about gold markers for CPT code 55876.

On page 69748, the word ''radiology'' was incorrectly stated as ''radiation.''

On page 69749, the word ''of'' should be removed from the phrase ''radiology of and certain other imaging services.''

On pages 69749 and 69750, in Table 18, under the subheading, ''Radiology and certain other imaging services,'' we made errors in the descriptors for CPT codes 0174T and 0175T and HCPCS codes A9567, A9568, Q9952, and Q9953.

On page 69750, in Table 19, we omitted CPT codes 78350 and G0243.

On page 69760, language was omitted from the formula.

On pages 69769 and 69770, in Table 36, ''Impact of Final Rule with Comment Period and Estimated Physician Update on 2007 Payment for Selected Procedures'', we identified errors in the new payment amounts for the following CPT and HCPCS codes: 27130, 27244, 27447, 33533, 35301, 43239, 77056, 77056–26, 77057, 77057–26, 92980, 93000, 93015 and G0317.

Corrections to these errors are reflected in section II.B. of this correcting amendment.

B. Correction of Errors in the Preamble

1. On page 69635, in the 3rd column, under the discussion titled, ''(vi)

Equipment Cost Per Minute,'' the calculation for the equipment cost per minute contained an error. The formula is corrected to read as follows:

''The equipment cost per minute is calculated as: (1/(minutes per year * usage)) * price * ((interest rate/(1-(1/((1+interest rate)∧life of equipment)))) + maintenance).''

2. On page 69647, in the 3rd column, in the 1st full paragraph, after the 3rd sentence, insert the following language: ''We also added the holter monitor to CPT codes 93226 and 93232 and assigned the equipment a time of 1440 minutes for these codes and reduced the holter monitor equipment time for CPT codes 93225 and 93231 to 42 minutes to correspond with the clinical staff associated with these services.''

3. On page 69654, in Table 5, the supply item, ''Kit, gold markers, fiducial, 3 per kit'' is deleted from the table. In addition, the unit price ''$1290'' for ''Agent, embolic'' is added to the table.

4. On page 69663, in the 2nd column, lines 5 through 12 of the third full paragraph, the language in the discussion with respect to items ''(1) and (2)'' is corrected to read as follows: ''(1) who receives a referral for such an ultrasound screening as a result of an initial preventive physical examination (IPPE) (as defined in section 1861(ww)(1) of the Act); (2) who has not been previously furnished such an ultrasound screening under this title; and''.

5. On page 69671, in the 2nd column, line 24, delete the second occurrence of the word ''not''. This sentence is revised to read as follows: ''Given the range of comments, we do not believe it is advisable to mandate the use of the methodology, which we proposed at § 414.804(a)(4)(iii), for excluding lagged exempt sales.''

6. On page 69677, the 3rd column, line 2, insert the word ''of'' between ''number'' and ''units.'' The sentence is revised to read as follows: ''One commenter asked that we clarify the number of units to be reported are the number of units sold excluding exempted sales.''

7. On page 69688, in the 1st column, under the section heading titled, ''d. ESRD wage Index Tables,'' the paragraph is revised to read as follows: ''Addenda G and H show the CY 2007 ESRD wage index, including the BNF adjustment, for urban areas (Addendum G) and rural areas (Addendum H).''

8. On page 69696, in the 1st column, 2nd paragraph, line 4, the spelling of the word ''supplier'' is corrected.

9. On page 69699—

a. In the 1st column, the 5th full paragraph, the following sentence is added to the end of the paragraph: ''Additionally, we do not intend to require IDTFs to list the serial numbers of all diagnostic equipment used by IDTFs in their comprehensive liability insurance. We recognize that it is infeasible for IDTFs to comply with this requirement and that such a requirement would inadvertently change the comprehensive liability insurance policy into a different type of insurance policy. Therefore, we are revising the language in § 410.33(g)(6) of our regulations to remove the serial number requirement.''

b. In the 3rd column, the 2nd full paragraph, the following language is added at the end of the paragraph: ''In addition, we are clarifying that these performance standards are not applicable to the diagnostic tests listed under the exceptions in § 410.33(a)(2).''

10. On page 69744, in the 3rd column, in the paragraph following the section heading, ''F. Additional Pricing Issue,'' the narrative concerning the table is corrected to read as follows:

''We are carrier-pricing the global and TC for the codes listed in Table 17. The TC is not paid in the facility setting under the PFS and for the majority of these services the RUC recommended that these be designated as NA in the non-facility setting. Work RVUs will continue to be used to establish payment for the PC.''

11. On page 69746, the following CPT codes are deleted from Table 17: 93503, 93539, 93540, 93541, 93542, 93543, 93544 and 93545.

12. On page 69747, the 1st column, the final paragraph that continues into the 2nd column is removed in its entirety.

13. On page 69748, in the 1st column, the 3rd paragraph, line 4, the word, ''radiation'' is corrected to read as, ''radiology.''

14. On page 69749, in the 1st column, the 1st full paragraph, line 4, in the phrase, ''radiology of and certain other imaging services,'' delete the word, ''of.'' The phrase is corrected to read ''radiology and certain other imaging services.''

15. On pages 69749 and 69750, in Table 18, the following descriptors are corrected as follows:

TABLE 18.—ADDITIONS TO THE PHYSICIAN SELF-REFERRAL LIST OF CPT [1]/HCPCS CODES

Radiology and Certain Other Imaging Services	
0174T	Cad cxr with interp.
0175T	Cad cxr remote.
A9567	Technetium TC–99m aerosol.
A9568	Technetium tc99m arcitumomab.
Q9952	Inj Gad-base MR contrast, 1ml.
Q9953	Inj Fe-base MR contrast, 1ml.

[1] CPT codes and descriptions only are copyright 2006 American Medical Association. All rights are reserved and applicable FARS/DFARS clauses apply.

16. On page 69750, in Table 19, the following CPT and HCPCS codes and their descriptors are added:

TABLE 19.—DELETIONS TO THE PHYSICIAN SELF-REFERRAL LIST OF CPT[1]/HCPCS CODES

Radiation and Certain Other Imaging Services	
78350	Bone mineral, single photon.
Radiation Therapy Services and Supplies	
G0243	Multisour photon stero treat.

[1] CPT codes and descriptions only are copyright 2006 AMA. All rights are reserved and applicable FARS/DFARS clauses apply.

17. On page 69760, the payment formula at the top of the 3rd column is corrected to read as follows:

''[((Work RVU × BN adjustor (0.8994)) (round product to two decimal places) × Work GPCI) + (PE RVU × PE GPCI) + (MP RVU × MP GPCI)] × CF.''

18. On pages 69769 through 69770 in Table 36, the following corrections are made:

TABLE 36.—IMPACT OF FINAL RULE WITH COMMENT PERIOD AND ESTIMATED PHYSICIAN UPDATE ON 2007 PAYMENT FOR SELECTED PROCEDURES

CPT/HCPCS	MOD	Description	FACILITY			NON-FACILITY		
			OLD	NEW	Percent change	OLD	NEW	Percent change
27130		Total hip arthroplasty	$1,399.55	$1,292.21	−8%	$1,399.55	na	na
27244		Treat thigh fracture	$1,137.68	$1,045.36	−8%	$1,137.68	na	na
27447		Total knee arthroplasty	$1,511.35	$1,391.17	−8%	$1,511.35	na	na
33533		CABG, arterial, single	$1,933.53	$1,812.55	−6%	$1,933.53	na	na
35301		Rechanneling of artery	$1,128.97	$1,018.01	−10%	$1,128.97	na	na
43239		Upper GI endoscopy, biopsy	$162.20	$147.18	−9%	$334.26	$309.11	−8%
77056		Mammogram, both breasts	$97.40	na	na	$97.40	$92.48	−5%
77056	26	Mammogram, both breasts	$45.10	$39.22	−13%	$45.10	$39.22	−13%
77057		Mammogram, screening	$85.65	na	na	$85.65	$77.73	−9%
77057	26	Mammogram, screening	$36.38	$31.67	−13%	$36.38	$31.67	−13%
92980		Inser intracoronary stent	$830.71	$756.04	−9%	$830.71	na	na
93000		Electrocardiogram, complete	$26.91	na	na	$26.91	$23.39	−13%
93015		Cardiovascular stress test	$108.01	na	na	$108.01	$99.32	−8%
G0008		Admin influenza virus vac	na	na	na	$18.57	$18.35	−1%
G0317		ESRD related svs 4+mo 20+yrs.	$308.11	$268.11	−13%	$308.11	$268.11	−13%

III. Errors in the Regulation Text

A. Summary of Errors in the Regulation Text

On page 69784, in § 410.33, we erroneously omitted a cross-reference in (a)(2) to include paragraphs (g) and (h). In addition, in § 410.33(g), Application certification standards, an editing error resulted in language being included on page 69785 in § 410.33(g)(6) that required IDTFs to list the serial numbers of all their diagnostic equipment in their comprehensive liability insurance policy.

On page 69785, § 411.15(o) contained erroneous revisions. Due to an editing error, changes to § 411.15(o) were improperly included in the August 22, 2006 proposed rule (71 FR 49081). There was no explanation given for these changes in the preamble, no public comments were received on the proposed changes, and the changes to the regulation text were inadvertently included in the final rule without any explanation. The erroneous language suggests that Medicare may pay for a category A device in certain clinical trials. Currently, however, the statute does not authorize payment for the costs of the category A device, but only for ''routine costs of care'' (section 1862(m) of the Act; § 405.207(b)(2)). Thus, we are correcting this final rule by restoring the language in § 411.15(o) to the language from the 2006 version of the CFR.

On pages 69787 and 69788, language was incorrectly included concerning non-lagged price concessions in the example.

B. Correction of Errors in the Regulation Text

The correction of errors for the regulation text appear after section V. of this correcting amendment.

IV. Errors in the Addenda

A. Summary of Errors in the Addenda

The following errors in Addenda B, G and J are revised under this correcting amendment. These addenda will not appear in the Code of Federal Regulations.

In Addendum B, pages 69796 through 70011, we are making the following corrections:

(1) Incorrect RVUs were listed for the following CPT codes: 36478, 37210, 44180, 44186, 77056, 77056–TC, 77422, 77423, 78351, 93225, 93226, 93231, 93232, 95991, 98960, 98961, 98962, G9041, G9042, G9043 and G9044.

(2) Incorrect status indicators and RVUs were listed for CPT codes 93503, 93539, 93540, 93541, 93542, 93543, 93544 and 93545.

In Addendum G, pages 70022 through 70043, we are making the following corrections:

(1) The title of the Addendum was missing a word.

(2) On page 70037, the wage index value for CBSA code ''39820, Redding CA'' was incorrect.

In Addendum J, pages 70248 through 70251, we note the following errors:

(1) On page 70247, CPT codes 78267 and 78268 are not in numerical order.

(2) On page 70248, in the 2nd column, we made typographical errors in the code descriptors for CPT codes 0174T and 0175T.

(3) On page 70250, in the 1st column, we incorrectly listed CPT code 78350. That code (single-photon absorptiometry) is non-covered beginning in 2007 under the policy changes discussed on page 69691 of the CY 2007 PFS final rule with comment period.

(4) On page 70250, in the 3rd column, we made typographical errors in the descriptors for HCPCS codes A9567, A9568, Q9952, and Q9953.

(5) On page 70251, in the 2nd column, we did not include the correct descriptor for HCPCS code G0173. Also, in that column, we incorrectly included HCPCS G0243, which was terminated effective December 31, 2006.

(6) On page 70251, in the second footnote at the bottom of the page, we gave an incorrect Web site address.

These corrections are reflected in section IV.B. of this correcting amendment.

B. Correction of Errors in Addenda

1. On pages 69796 through 70011, in Addendum B: Relative Value Units (RVUs) and Related Information the following entries are corrected to read as follows:

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—CORRECTIONS

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician Work RVUs [3]	Fully Implemented Non-Facility PE RVUs	Year 2007 Transitional Non-Facility PE RVUs	Fully Implemented Facility PE RVUs	Year 2007 Transitional Facility PE RVUs	Mal-Practice RVUs	Fully Implemented Non-Facility Total	Year 2007 Transitional Non-Facility Total	Fully Implemented Facility Total	Year 2007 Transitional Facility Total	Global
36478 ..	.....	A	Endovenous laser, 1st vein.	6.72	26.53	41.71	2.03	2.41	0.37	33.62	48.80	9.12	9.50	000
37210 ..	.....	A	Embolization uterine fibroid.	10.60	79.88	79.88	3.13	3.13	0.60	91.08	91.08	14.33	14.33	000
44180 ..	.....	A	Lap, enterolysis	15.19	NA	NA	5.65	6.09	1.86	NA	NA	22.70	23.14	090
44186 ..	.....	A	Lap, jejunostomy	10.30	NA	NA	4.43	4.70	1.27	NA	NA	16.00	16.27	090
77056 ..	.....	A	Mammogram, both breasts.	0.87	1.96	1.68	NA	NA	0.11	2.94	2.66	NA	NA	XXX
77056 ..	TC ...	A	Mammogram, both breasts.	0.00	1.72	1.41	NA	NA	0.07	1.79	1.48	NA	NA	XXX
77422 ..	.....	A	Neutron beam tx, simple	0.00	5.31	2.61	NA	NA	0.13	5.44	2.74	NA	NA	XXX
77423 ..	.....	A	Neutron beam tx, complex.	0.00	7.51	3.57	NA	NA	0.13	7.64	3.70	NA	NA	XXX
78351 ..	.....	N	Bone mineral, dual photon.	0.30	0.47	1.41	0.07	0.11	0.01	0.78	1.72	0.38	0.42	XXX
93225 ..	.....	A	ECG monitor/record, 24 hrs.	0.00	0.85	1.14	NA	NA	0.08	0.93	1.22	NA	NA	XXX
93226 ..	.....	A	ECG monitor/report, 24 hrs.	0.00	1.18	1.93	NA	NA	0.14	1.32	2.07	NA	NA	XXX
93231 ..	.....	A	Ecg monitor/record, 24 hrs.	0.00	0.71	1.32	NA	NA	0.11	0.82	1.43	NA	NA	XXX
93232 ..	.....	A	ECG monitor/report, 24 hrs.	0.00	1.34	1.97	NA	NA	0.13	1.47	2.10	NA	NA	XXX
93503 ..	.....	A	Insert/place heart catheter.	2.91	NA	NA	0.47	0.63	0.20	NA	NA	3.58	3.74	000
93539 ..	.....	A	Injection, cardiac cath	0.40	NA	NA	0.22	0.18	0.01	NA	NA	0.63	0.59	000
93540 ..	.....	A	Injection, cardiac cath	0.43	NA	NA	0.24	0.19	0.01	NA	NA	0.68	0.63	000
93541 ..	.....	A	Injection for lung angiogram.	0.29	NA	NA	0.15	0.12	0.01	NA	NA	0.45	0.42	000
93542 ..	.....	A	Injection for heart x-rays	0.29	NA	NA	0.15	0.12	0.01	NA	NA	0.45	0.42	000
93543 ..	.....	A	Injection for heart x-rays	0.29	NA	NA	0.16	0.12	0.01	NA	NA	0.46	0.42	000
93544 ..	.....	A	Injection for aortography	0.25	NA	NA	0.13	0.11	0.01	NA	NA	0.39	0.37	000
93545 ..	.....	A	Inject for coronary x-rays	0.40	NA	NA	0.22	0.18	0.01	NA	NA	0.63	0.59	000
95991 ..	.....	A	Spin/brain pump refill & main.	0.77	1.63	1.53	0.18	0.17	0.06	2.46	2.36	1.01	1.00	XXX
98960 ..	.....	B	Self-mgmt educ & train, 1 pt.	0.00+	0.57	0.57	NA	NA	0.01	0.58	0.58	NA	NA	XXX
98961 ..	.....	B	Self-mgmt educ/train, 2–4 pt.	0.00+	0.27	0.27	NA	NA	0.01	0.28	0.28	NA	NA	XXX
98962 ..	.....	B	Self-mgmt educ/train, 5–8 pt.	0.00+	0.20	0.20	NA	NA	0.01	0.21	0.21	NA	NA	XXX
G9041	.....	A	Low vision rehab occupationa.	0.44	0.29	0.29	0.29	0.29	0.01	0.74	0.74	0.74	0.74	XXX
G9042	.....	A	Low vision rehab orient/mobi.	0.10	0.29	0.29	0.29	0.29	0.01	0.40	0.40	0.40	0.40	XXX
G9043	.....	A	Low vision lowvision therapi.	0.10	0.29	0.29	0.29	0.29	0.01	0.40	0.40	0.40	0.40	XXX
G9044	.....	A	Low vision rehabilate teache.	0.10	0.23	0.23	0.23	0.23	0.01	0.40	0.40	0.40	0.40	XXX

[1] CPT codes and descriptions only are copyright 2006 American Medical Association. All Rights Reserved. Applicable FARS/DFARS apply.
[3] + Indicates RVUs are not used for Medicare payment.

2. On pages 70022 through 70043, the title of Addendum G is corrected to read as follows: ''CY 2007 ESRD WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS.''

3. On page 70037, the wage index value for CBSA code 39820, Redding CA is corrected to read ''1.3895''.

4. In Addendum J:

a. On page 70247, in the 3rd column, the entries for CPT codes 78267 and 78268 and their respective descriptors are corrected by placing them in numerical order.

b. On page 70248, in the 2nd column, the descriptors for CPT codes 0174T and 0175T are corrected by revising ''crx'' to read ''cxr''.

c. On page 70250, in the 1st column, the entry for CPT code 78350 is removed.

d. On page 70250, in the 3rd column, the descriptors for HCPCS codes A9567, A9568, Q9952 and Q9953 are corrected to read as follows:

ADDENDUM J.—LIST OF CPT[1]/HCPCS CODES USED TO DESCRIBE CERTAIN DESIGNATED HEALTH SERVICE CATEGORIES[2] UNDER SECTION 1877 OF THE SOCIAL SECURITY ACT

[Effective Date January 1, 2007]

RADIATION THERAPY SERVICES AND SUPPLIES	
CPT code	Descriptor
A9567	Technetium TC–99m aerosol.
A9568	Technetium tc99m arcitumomab.
Q9952	Inj Gad-base MR contrast,1ml.
Q9953	Inj Fe-base MR contrast,1ml.

[1] CPT codes and descriptions only are copyright 2006 American Medical Association. All rights are reserved and applicable FARS/DFARS clauses apply.

[2] This list does not include codes for the following designated health service (DHS) categories: durable medical equipment and supplies; parenteral and enteral nutrients, equipment and supplies; prosthetics, orthotics, and prosthetic devices and supplies; home health services; outpatient prescription drugs; and inpatient and outpatient hospital services. For the definitions of these DHS categories, refer to § 411.351. For more information, refer to *http://cms.hhs.gov/PhysicianSelfReferral/*.

e. On page 70251, in the 2nd column, the descriptor for HCPCS code G0173 is corrected to read, ''Linear acc stereo radsur com'', and HCPCS code G0243 and its descriptor are removed.

f. On page 70251, in the 3rd column, the Web site in the last sentence of the second footnote is corrected to read *http://www.cms.hhs.gov/PhysicianSelfReferral/*.

V. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive the notice and comment procedures if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the rule.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This correcting amendment addresses technical errors and omissions made in FR Doc. 06–9086, entitled ''Medicare Program; Revisions to Payment Policies, Five-Year Review of Work Relative Value Units, and Changes to the Practice Expense Methodology Under the Physician Fee Schedule, and Other Changes to Payment Under Part B; Revisions to the Payment Policies of Ambulance Services Under the Fee Schedule for Ambulance Services; Ambulance Inflation Factor Update for CY 2007,'' which appeared in the December 1, 2006 **Federal Register** (71 FR 69624), and was effective January 1, 2007. This correcting amendment identifies errors and technical correction that are in addition to those identified in the correction notice that appeared in the December 8, 2006 **Federal Register** (71 FR 58415). The provisions of this final rule with comment period have been previously subjected to notice and comment procedures. Except as noted below, these corrections are consistent with the discussion and text of the final rule with comment period, and do not make substantive changes to the CY 2007 published rule. As such, this correcting amendment is intended to ensure the CY 2007 PFS final rule with comment period accurately reflects the policies adopted in that rule. With respect to most of the corrections in this correcting amendment, we find, therefore, that it is unnecessary and would be contrary to the public interest to undertake further notice and comment procedures to incorporate these corrections into the final rule with comment period.

Except as noted below, for the same reasons, we are also waiving the 30-day delay in effective date for this correcting amendment. We believe that it is in the public interest to ensure that the CY 2007 PFS final rule with comment period accurately states our policies relating to the PFS and other Part B payment policies. Therefore, except as noted otherwise, we find that delaying the effective date of these corrections beyond the January 1, 2007 effective date of the final rule with comment period would be contrary to the public interest. In so doing, we also find good cause to waive the 30-day delay in the effective date.

With respect to the corrections to pages 69699 and 69785 concerning revisions to the performance standards for IDTFs, we find that it would be impracticable and contrary to the public interest to seek public comments before correcting this regulation. The current regulatory language is erroneous because it would require IDTFs to list the serial numbers for all diagnostic equipment in its comprehensive liability insurance policy. This requirement would be impracticable for several reasons. For one, most IDTFs would be unable to comply with this requirement because only some of their diagnostic equipment is onsite. Secondly, this requirement would have the unintended effect of changing the comprehensive liability insurance policy into a different type of insurance policy. For the same reasons, we are waiving the 30-day delay in effective date for these corrections. The corrections to pages 69699 and 69785 concerning revisions to the performance standards for IDTFs are effective April 16, 2007.

With respect to the corrections to § 411.15(o), we find it would be contrary to the public interest to seek public comments before correcting this regulation. The current regulatory language is erroneous and misleading for it suggests that Medicare payment could be made for certain category A devices for which questions of safety and effectiveness have not been resolved (§ 405.201). Moreover, payment for category A devices in these circumstances would be inconsistent with Congressional intent in enacting section 1862(m) of the Act. Section 1871(e)(1)(A) of the Act, as amended by section 903(b)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173), generally prohibits the Secretary from making retroactive substantive changes in policy unless retroactive application of the change is necessary to comply with statutory requirements, or failure to apply the change retroactively would be contrary to the public interest. We are making the

corrections to § 411.15(o) retroactive because failure to apply the change retroactively to January 1, 2007 would be contrary to the public interest because it would fail to preserve the public fisc. *OPM* v. *Richmond*, 496 U.S. 414 (1990). Moreover, retroactivity is necessary to comply with statutory requirements in section 1862(m) of the Act which did not authorize payment for category A devices.

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

Dated: April 5, 2007.

Ann C. Agnew,

Executive Secretary to the Department.

■ Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

■ 1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102, 1834, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395m, and 1395hh).

Subpart B—Medical and Other Health Services

■ 2. Section 410.33 is amended by—

■ A. Revising paragraph (a)(2).

■ B. Revising paragraph (g)(6).

The revisions read as follows:

§ 410.33 [Amended]

(a) * * *

(2) *Exceptions.* The following diagnostic tests that are payable under the physician fee schedule and furnished by a nonhospital testing entity are not required to be furnished in accordance with the criteria set forth in paragraphs (b) through (e) and (g) and (h) of this section.

* * * * *

(g) * * *

(6) Have a comprehensive liability insurance policy of at least $300,000 per location that covers both the place of business and all customers and employees of the IDTF. The policy must be carried by a nonrelative-owned company.

* * * * *

PART 411—EXCLUSIONS FROM MEDICARE AND LIMITATIONS ON MEDICARE PAYMENT

■ 3. The authority citation for part 411 is amended to read as follows:

Authority: Secs. 1102, 1860D–1 through 1860D–42, 1871, and 1877 of the Social Security Act (42 U.S.C. 1302, 1395w–101 through 1395w–152, 1395hh, and 1395nn).

Subpart A—General Exclusions and Exclusion of Particular Services

■ 4. Section 411.15 is amended by revising paragraph (o) to read as follows:

§ 411.15 [Amended]

* * * * *

(o) Experimental or investigational devices, except for certain devices.

(1) Categorized by the FDA as a non-experimental/investigational (Category B) device defined in § 405.201(b) of this chapter; and

(2) Furnished in accordance with the FDA-approved protocols governing clinical trials.

* * * * *

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

■ 5. The authority citation for Part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(l) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(l)).

Subpart J—Submission of Manufacturer's Average Sales Price Data

■ 6. Section 414.804(a)(3)(iv) is revised to read as follows:

§ 414.804 [Amended]

(a) * * *

(3) * * *

(iv) *Example.* After adjusting for exempted sales, the total lagged price concessions (discounts, rebates, etc.) over the most recent 12-month period available associated with sales for National Drug Code 12345–6789–01 subject to the ASP reporting requirement equal $200,000, and the total in dollars for the sales subject to the average sales price reporting requirement for the same period equals $600,000. The lagged price concessions percentage for this period equals 200,000/600,000 = 0.33333. The total in dollars for the sales subject to the average sales price reporting requirement for the quarter being reported, equals $50,000 for 10,000 units sold. The manufacturer's average sales price calculation for this National Drug Code for this quarter is: $50,000 − (0.33333 × $50,000) = $33,334 (net total sales amount); $33,334/10,000 = $3.33 (average sales price).

* * * * *

[FR Doc. E7–6989 Filed 4–13–07; 8:45 am]

BILLING CODE 4120–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 801

Public Availability of Information

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule.

SUMMARY: The NTSB is updating its regulations regarding the availability of information. This amendment updates the NTSB regulations that implement the Freedom of Information Act (FOIA) and Privacy Act, notifies the public of changes in the NTSB's Freedom of Information Act processing procedures and, in general, advises the public on the availability of information from NTSB accident investigations.

DATES: This final rule will become effective May 23, 2007.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), published in the **Federal Register**, is available for inspection and copying in the Board's public reading room, located at 490 L'Enfant Plaza, SW., Washington, DC 20594–2000. Alternatively, a copy of the NPRM is available on the Board's Web site, at *http://www.ntsb.gov.*

FOR FURTHER INFORMATION CONTACT: Gary L. Halbert, General Counsel, (202) 314–6080.

SUPPLEMENTARY INFORMATION:

Regulatory History

On November 22, 2006, the NTSB published a notice of proposed rulemaking entitled, ''Public Availability of Information,'' in the **Federal Register** (71 FR 67523). This NPRM set forth amendments to the Board's regulations regarding the availability of information, and provided updated information regarding how the public may obtain NTSB records. The NPRM also set forth an updated fee schedule to apply to requests for NTSB records.

Discussion of Comments and Changes

The NTSB did not receive any comments regarding the aforementioned NPRM. The NTSB also did not receive any requests for a public meeting; therefore, the NTSB did not hold a public meeting on the NPRM.

In the interest of ensuring that all provisions of 49 CFR part 801 are accurate and complete, the Board's final rule herein will include one minor revision to § 801.60(a) that the NTSB did not include in the NPRM: In the final sentence of § 801.60(a), the rule will now advise requesters to ''pay fees in accordance with the instructions

provided on the invoice the FOIA Office sends to the requester.'' The language of § 801.60(a) in the NPRM had directed requesters to pay fees via check or money order. In the interest of ensuring that changes in banking technology, resources, and the like do not compel the NTSB to continually amend provisions of part 801, the final rule will advise requesters to refer to the payment instructions on each invoice that they receive.

Statutory and Regulatory Evaluation

This rule provides current, accurate information to the public regarding how the public may obtain NTSB records and information. This rule will serve to inform and assist the public with regard to obtaining NTSB records and information.

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of the potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under Executive Order 12866. Likewise, this rule does not require an analysis under the Unfunded Mandates Reform Act, 2 U.S.C. 1501–1571, or the National Environmental Policy Act, 42 U.S.C. 4321–4347.

In addition, the NTSB has considered whether this rule would have a significant economic impact on a substantial number of small entities, under the Regulatory Flexibility Act (5 U.S.C. 601–612). The NTSB certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule requests no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Furthermore, the NTSB does not anticipate that this rule will have a substantial, direct effect on State or local governments; as such, this rule does not have implications for federalism under Executive Order 13132, Federalism. This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

In addition, the NTSB has evaluated this rule under: Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights; Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks; Executive Order 13175, Consultation and Coordination with Indian Tribal Governments; Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use; and the National Technology Transfer and Advancement Act, 15 U.S.C. 272 note. The NTSB has concluded that this rule does not contravene any of the requirements set forth in these Executive Orders or statutes, nor does this rule prompt further consideration with regard to such requirements.

List of Subjects in 49 CFR Part 801

Archives and records, Freedom of information, Privacy.

■ For the reasons discussed in the preamble, the NTSB revises 49 CFR part 801 to read as follows:

PART 801—PUBLIC AVAILABILITY OF INFORMATION

Subpart A—Applicability and Policy

Sec.
801.1 Applicability.
801.2 Policy.
801.3 Definitions.

Subpart B—Administration

801.10 General.
801.11 Segregability of records.
801.12 Protection of records.

Subpart C—Time Limits

801.20 Processing of records.
801.21 Initial determination.
801.22 Final determination.
801.23 Extension.

Subpart D—Accident Investigation Records

801.30 Records from accident investigations.
801.31 Public hearings regarding investigations.
801.32 Accident reports.

Subpart E—Other Board Documents

801.40 The Board's rules.
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Subpart F—Exemption from Public Disclosure

801.50 Exemptions from disclosure.
801.51 National defense and foreign policy secrets.
801.52 Internal personnel rules and practices of the NTSB.
801.53 Records exempt by statute from disclosure.
801.54 Trade secrets and commercial or financial information.
801.55 Interagency and intra-agency exchanges.
801.56 Unwarranted invasion of personal privacy.
801.57 Records compiled for law enforcement purposes.
801.58 Records for regulation of financial institutions.
801.59 Geological records.

Subpart G—Fee Schedule

801.60 Fee schedule.
801.61 Appeals of fee determinations.

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101–1155); 5 U.S.C. 551(2); Freedom of Information Act (5 U.S.C. 552); 18 U.S.C. 641 and 2071; 31 U.S.C. 3717 and 9701; Federal Records Act, 44 U.S.C. Chapters 21, 29, 31, and 33.

Subpart A—Applicability and Policy

§ 801.1 Applicability.

(a) This part contains the rules that the National Transportation Safety Board (NTSB) follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. These rules should be read together with the FOIA, which provides additional information about public access to records maintained by the NTSB.

(b) This part also provides for document services and the fees for such services, pursuant to 31 U.S.C. 9701.

(c) This part applies only to records existing when the request for the information is made. The NTSB is not required to create records for the sole purpose of responding to a FOIA request.

(d) Sections 801.51 through 801.59 of this chapter describe records that are exempt from public disclosure.

§ 801.2 Policy.

(a) In implementing 5 U.S.C. 552, it is the policy of the NTSB to make information available to the public to the greatest extent possible, consistent with the mission of the NTSB. Information the NTSB routinely provides to the public as part of a regular NTSB activity (such as press releases and information disclosed on the NTSB's public Web site) may be provided to the public without compliance with this part. In addition, as a matter of policy, the NTSB may make discretionary disclosures of records or information otherwise exempt from disclosure under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption; however, this policy does not create any right enforceable in court.

(b) Given the NTSB's stated policy of providing as much information as possible regarding general NTSB operations and releasing documents involving investigations, the NTSB strongly encourages requesters seeking information to check the NTSB's Web site for such information before submitting a FOIA request. For every investigation in which the NTSB has determined the probable cause of an accident, the NTSB's docket management system will include a ''public docket'' containing

documentation that the investigator-in-charge deemed pertinent to the investigation. Requesters may obtain these public dockets without submitting a FOIA request. The NTSB encourages all requesters to review the public docket materials *before* submitting a FOIA request.

§ 801.3 Definitions.

The following definitions shall apply in this part:

(a) ''Record'' includes any writing, drawing, map, recording, tape, film, photo, or other documentary material by which information is preserved. In this part, ''document'' and ''record'' shall have the same meaning.

(b) ''Redact'' refers to the act of making a portion of text illegible by placing a black mark on top of the text.

(c) ''Public Docket'' includes a collection of records from an accident investigation that the investigator who oversaw the investigation of that accident has deemed pertinent to determining the probable cause of the accident.

(d) ''Non-docket'' items include other records from an accident that the investigator who oversaw the investigation of that accident has deemed irrelevant or not directly pertinent to determining the probable cause of the accident.

(e) ''Chairman'' means the Chairman of the NTSB.

(f) ''Managing Director'' means the Managing Director of the NTSB.

(g) ''Requester'' means any person, as defined in 5 U.S.C. 551(2), who submits a request pursuant to the FOIA.

Subpart B—Administration

§ 801.10 General.

(a) The NTSB's Chief, Records Management Division, is responsible for the custody and control of all NTSB records required to be preserved under the Federal Records Act, 44 U.S.C. Chapters 21, 29, 31, and 33.

(b) The NTSB's FOIA Officer shall be responsible for the initial determination of whether to release records within the 20-working-day time limit, or the extension specified in the Freedom of Information Act.

(c) The NTSB's Chief, Records Management Division, shall:

(1) Maintain for public access and commercial reproduction all accident files containing aviation and surface investigators' reports, factual accident reports or group chairman reports, documentation and accident correspondence files, transcripts of public hearings, if any, and exhibits; and

(2) Maintain a public reference room, also known as a ''Reading Room,'' in accordance with 5 U.S.C. 552(a)(2). The NTSB's public reference room is located at 490 East L'Enfant Plaza, SW., Washington, DC. Other records may be available in the NTSB's Electronic Reading Room, which is located on the NTSB's Web site, found at *http://www.ntsb.gov.*

(d) Requests for documents must be made in writing to: National Transportation Safety Board, Attention: FOIA Officer CIO–40, 490 L'Enfant Plaza, SW., Washington, DC 20594–2000. All requests:

(1) Must reasonably identify the record requested. For requests regarding an investigation of a particular accident, requesters should include the date and location of the accident, as well as the NTSB investigation number. In response to broad requests for records regarding a particular investigation, the FOIA Office will notify the requester of the existence of a public docket, and state that other non-docket items may be available, or may become available, at a later date. After receiving this letter and reviewing the items in the public docket, requesters should notify the FOIA office if the items contained in the public docket suffice to fulfill their request.

(2) Must be accompanied by the fee or agreement (if any) to pay the reproduction costs shown in the fee schedule at § 801.60 of this title, and

(3) Must contain the name, address, and telephone number of the person making the request. Requesters must update their address and telephone number in writing should this information change.

(e) The envelope in which the requester submits the request should be marked prominently with the letters ''FOIA.'' If a request fails to include a citation to the FOIA, the NTSB FOIA Office will attempt to contact the requester immediately to rectify the omission and/or clarify the request. However, the 20-working-day time limit for processing shall not commence until the FOIA Office receives a complete request.

(f) The field offices of the NTSB shall not maintain, for public access, records maintained by the Chief, Records Management Division. Requests mailed to NTSB field offices will not satisfy the NTSB's requirements for submitting a FOIA request.

(g) The NTSB may work with a commercial reproduction firm to accommodate requests for reproduction of accident records from the public docket. The reproduction charges may be subject to change. The NTSB will update its FOIA Web site to reflect any such changes. Section 801.60 of this title contains a current fee schedule.

(h) The NTSB will not release records originally generated by other agencies or entities. Instead, the NTSB will refer such requests for other agencies' records to the appropriate agency, which will make a release determination upon receiving and processing the referred request.

(i) Where a requester seeks a record on behalf of another person, and the record contains that person's personal information protected by Exemption 6 of the FOIA (see section 801.56 of this title), the NTSB requires the requester to submit a notarized statement of consent from the person whose personal information is contained in the record, before the NTSB releases the record.

(j) In general, the NTSB will deny requests for records concerning a pending investigation, pursuant to appropriate exemptions under the FOIA. The FOIA Office will notify the requester of this denial, and will provide the requester with information regarding how the requester may receive information on the investigation once the investigation is complete. The NTSB discourages requesters from submitting multiple FOIA requests in a continuing effort to obtain records before an investigation is complete.

§ 801.11 Segregability of records.

The initial decision of the FOIA Officer will include a determination of segregability. If it is reasonable to do so, the exempt portions of a record will be segregated and, where necessary, redacted, and the nonexempt portions will be sent to the requester.

§ 801.12 Protection of records.

(a) No person may, without permission, remove from the place where it is made available any record made available for inspection or copying under § 801.10(c)(2) of this part. Stealing, altering, mutilating, obliterating, or destroying, in whole or in part, such a record shall be deemed a criminal offense.

(b) Section 641 of title 18 of the United States Code provides, in pertinent part, as follows: ''Whoever * * * steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record * * * or thing of value of the United States or of any department or agency thereof * * * shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the

defendant is convicted in a single case, does not exceed the sum of $1,000, he shall be fined under this title or imprisoned not more than one year, or both.''

(c) Section 2071(a) of title 18 of the United States Code provides, in pertinent part, as follows:

Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited * * * in any public office, or with any * * * public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both.

Subpart C—Time Limits

§ 801.20 Processing of requests.

(a) The NTSB processes FOIA requests upon receipt. The NTSB FOIA Office may notify the requester that the NTSB has received the request. The FOIA Office will then place each request on one of three tracks:

(1) Track 1: Requests for which there are no records, requests that meet the criteria for expedited processing, or requests that seek records that have been produced in response to a prior request.

(2) Track 2: Requests that do not involve voluminous records or lengthy consultations with other entities.

(3) Track 3: Requests that involve voluminous records and for which lengthy or numerous consultations are required, or those requests which may involve sensitive records.

(b) Regarding expedited processing, if a requester states that he or she has a compelling need for the expedited treatment of their request, then the NTSB FOIA Office will determine whether to expedite the request and, where appropriate, do so.

§ 801.21 Initial determination.

The NTSB FOIA Officer will make an initial determination as to whether to release a record within 20 working days (excluding Saturdays, Sundays, and legal public holidays) after the request is received. This time limit may be extended up to 10 additional working days in accordance with § 801.23 of this part. The person making the request will be notified immediately in writing of such determination. If a determination is made to release the requested record(s), such record(s) will be made available promptly. If the FOIA Officer determines not to release the record(s), the person making the request will, when he or she is notified of such determination, be advised of:

(a) The reason for the determination,

(b) the right to appeal the determination, and

(c) the name and title or positions of each person responsible for the denial of the request.

§ 801.22 Final determination.

Requesters seeking an appeal of the FOIA Officer's initial determination must send a written appeal to the NTSB's Managing Director within 20 days. The NTSB's Managing Director will determine whether to grant or deny any appeal made pursuant to § 801.21 within 20 working days (excluding Saturdays, Sundays, and legal public holidays) after receipt of such appeal, except that this time limit may be extended for as many as 10 additional working days, in accordance with § 801.23.

§ 801.23 Extension.

In unusual circumstances as specified in this section, the time limits prescribed in either § 801.21 or § 801.22, may be extended by written notice to the person making a request and setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. Such notice will not specify a date that would result in an extension for more than 10 working days. As used in this paragraph, ''unusual circumstances,'' as they relate to any delay that is reasonably necessary to the proper processing of the particular request, means—

(a) The need to search for and collect the requested records from field facilities or other establishments;

(b) The need to search for, collect, and appropriately examine and process a voluminous amount of records which are the subject of a single request; or

(c) The need to consult with another agency that has a substantial interest in the disposition of the request or with two or more components of the agency having substantial subject-matter interest therein.

Subpart D—Accident Investigation Records

§ 801.30 Records from accident investigations.

Upon completion of an accident investigation, each NTSB investigator (or ''group chairman,'' depending on the investigation) shall complete a factual report with supporting documentation and include these items in the public docket for the investigation. The Chief, Records Management Division, will then make the records available to the public for inspection or production by an order for commercial copying.

§ 801.31 Public hearings regarding investigations.

Within approximately four (4) weeks after a public hearing concerning an investigation, the Chief, Records Management Division, will make available to the public the hearing transcript. On or before the date of the hearing, the Chief, Records Management Division, will make the exhibits introduced at the hearing available to the public for inspection or commercial copy order.

§ 801.32 Accident reports.

(a) The NTSB will report the facts, conditions, and circumstances, and its determination of the probable causes of U.S. civil transportation accidents, in accordance with 49 U.S.C. 1131(e).

(b) These reports may be made available for public inspection in the NTSB's public reference room and/or on the NTSB's Web site, at *http://www.ntsb.gov.*

Subpart E—Other Board Documents

§ 801.40 The Board's rules.

The NTSB's rules are published in the Code of Federal Regulations as Parts 800 through 850 of Title 49.

§ 801.41 Reports to Congress.

The NTSB submits its annual report to Congress each year, in accordance with 49 U.S.C. 1117. The report will be available on the NTSB's Web site, found at *http://www.ntsb.gov.* Interested parties may purchase the report from the Government Printing Office or review it in the NTSB's public reference room. All other reports or comments to Congress will be available in the NTSB's public reference room for inspection or by ordering a copy after issuance.

Subpart F—Exemption From Public Disclosure

§ 801.50 Exemptions from disclosure.

Title 5, United States Code section 552(a) and (b) exempt certain records from public disclosure. As stated in § 801.2 of this title, the NTSB may choose to make a discretionary release of a record that is authorized to be withheld under 5 U.S.C. 552(b), unless it determines that the release of that record would be inconsistent with the purpose of the exemption concerned. Examples of records given in §§ 801.51 through 801.58 included within a particular statutory exemption are not necessarily illustrative of all types of records covered by the applicable exemption.

§ 801.51 National defense and foreign policy secrets.

Pursuant to 5 U.S.C. 552(b)(1), national defense and foreign policy secrets established by Executive Order, as well as properly classified documents, are exempt from public disclosure. Requests to the NTSB for such records will be transferred to the source agency as appropriate, where such classified records are identified. (See, *e.g.*, Executive Order 12,958, as amended on March 25, 2003.)

§ 801.52 Internal personnel rules and practices of the NTSB.

Pursuant to 5 U.S.C. 552(b)(2), the following records are exempt from disclosure under FOIA:

(a) Records relating solely to internal personnel rules and practices, including memoranda pertaining to personnel matters such as staffing policies, and procedures for the hiring, training, promotion, demotion, or discharge of employees, and management plans, records, or proposals relating to labor-management relations.

(b) Records regarding:

(1) Internal matters of a relatively trivial nature that have no significant public interest, and

(2) Predominantly internal matters, the release of which would risk circumvention of a statute or agency regulation.

§ 801.53 Records exempt by statute from disclosure.

Pursuant to 5 U.S.C. 552(b)(3), the NTSB will not disclose records specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute:

(a) Requires that the matters be withheld from the public in such manner as to leave no discretion on the issue, or

(b) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

§ 801.54 Trade secrets and commercial or financial information.

Pursuant to 5 U.S.C. 552(b)(4), trade secrets and items containing commercial or financial information that are obtained from a person and are privileged or confidential are exempt from public disclosure.

§ 801.55 Interagency and intra-agency exchanges.

(a) Pursuant to 5 U.S.C. 552(b)(5), any record prepared by an NTSB employee for internal Government use is exempt from public disclosure to the extent that it contains—

(1) Opinions made in the course of developing official action by the NTSB but not actually made a part of that official action, or

(2) Information concerning any pending NTSB proceeding, or similar matter, including any claim or other dispute to be resolved before a court of law, administrative board, hearing officer, or contracting officer.

(b) The purpose of this section is to protect the full and frank exchange of ideas, views, and opinions necessary for the effective functioning of the NTSB. These resources must be fully and readily available to those officials upon whom the responsibility rests to take official NTSB action. Its purpose is also to protect against the premature disclosure of material that is in the developmental stage, if premature disclosure would be detrimental to the authorized and appropriate purposes for which the material is being used, or if, because of its tentative nature, the material is likely to be revised or modified before it is officially presented to the public.

(c) Examples of materials covered by this section include, but are not limited to, staff papers containing advice, opinions, or suggestions preliminary to a decision or action; preliminary notes; advance information on such things as proposed plans to procure, lease, or otherwise hire and dispose of materials, real estate, or facilities; documents exchanged in preparation for anticipated legal proceedings; material intended for public release at a specified future time, if premature disclosure would be detrimental to orderly processes of the NTSB; records of inspections, investigations, and surveys pertaining to internal management of the NTSB; and matters that would not be routinely disclosed in litigation but which are likely to be the subject of litigation.

§ 801.56 Unwarranted invasion of personal privacy.

Pursuant to 5 U.S.C. 552(b)(6), any personal, medical, or similar file is exempt from public disclosure if its disclosure would harm the individual concerned or would be a clearly unwarranted invasion of the person's personal privacy.

§ 801.57 Records compiled for law enforcement purposes.

Pursuant to 5 U.S.C. 552(b)(7), any records compiled for law or regulatory enforcement are exempt from public disclosure to the extent that disclosure would interfere with enforcement, would be an unwarranted invasion of privacy, would disclose the identity of a confidential source, would disclose investigative procedures and practices, or would endanger the life or security of law enforcement personnel.

§ 801.58 Records for regulation of financial institutions.

Pursuant to 5 U.S.C. 552(b)(8), records compiled for agencies regulating or supervising financial institutions are exempt from public disclosure.

§ 801.59 Geological records.

Pursuant to 5 U.S.C. 552(b)(9), records concerning geological wells are exempt from public disclosure.

Subpart G—Fee Schedule

§ 801.60 Fee schedule.

(a) *Authority.* Pursuant to 5 U.S.C. 552(a)(4)(i) and 52 FR 10,012 (Mar. 27, 1987), the NTSB may charge certain fees for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section, or where a waiver or reduction of fees is granted under paragraph (e) of this section. The NTSB may collect all applicable fees before sending copies of requested records to a requester. A requester must pay fees in accordance with the instructions provided on the invoice the FOIA Office sends to the requester.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests. This includes the furtherance of commercial interests through litigation. When it appears that the requester will use the requested records for a commercial purpose, either because of the nature of the request or because the NTSB has reasonable cause to doubt a requester's stated use, the NTSB shall provide the requester with a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses that an agency actually incurs in searching for, reviewing, and duplicating records in response to a FOIA request. This includes the salaries of employees performing the work, as listed below, but does not include overhead expenses such as the costs of office space.

(3) *Duplication* means the copying of a record, or of the information contained in a record, in response to a FOIA request.

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate

higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. In order for a requester to demonstrate that their request falls within the category of an ''educational institution,'' the requester must show that the request is authorized by the qualifying institution and that the requester does not seek the records for commercial use, but only to further scholarly research.

(5) *Representative of the news media* or ''news media requester'' means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. For ''freelance'' journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization (for example, a journalist may submit a copy of a publication contract for which the journalist needs NTSB records).

(6) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. ''Review'' also includes processing the record(s) for disclosure, which includes redacting and otherwise preparing releasable records for disclosure. The NTSB may require review costs even if the NTSB ultimately does not release the record(s).

(7) *Search* means the process of looking for and retrieving records or information within the scope of a request. ''Search'' includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. The NTSB will make an effort to conduct such searches in the least expensive manner.

(c) *Fees.* In responding to FOIA requests, the NTSB will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (d) of this section:

(1) *Search.*

(i) The NTSB will charge search fees for all requests, unless an educational institution, a noncommercial scientific institution, or a news media representative submits a request containing adequate justification for obtaining a fee waiver. These fees, however, are subject to the limitations of paragraph (d) of this section. The NTSB may charge for time spent searching even if the NTSB does not locate any responsive record or if the NTSB withholds the record(s) located because such record(s) are exempt from disclosure.

(ii) The NTSB will charge $4.00 for each quarter of an hour spent by clerical personnel in searching for and retrieving a requested record. Where clerical personnel cannot entirely perform a search and retrieval (for example, where the identification of records within the scope of a request requires the assistance of professional personnel), the applicable fee will instead be $7.00 for each quarter hour of search time spent by professional personnel. Where a request requires the time of managerial personnel, the fee will be $10.25 for each quarter hour of time spent by these personnel.

(2) *Duplication.* The NTSB will charge duplication fees, subject to the limitations of paragraph (d) of this section.

(i) The NTSB utilizes the services of a commercial reproduction facility for requests for duplicates of NTSB public dockets and publications.

(ii) Regarding the reproduction of non-public records in response to a FOIA request, the NTSB will charge $0.10 per page for the duplication of a standard-size paper record. For other forms of duplication, the NTSB will charge the direct costs of the duplication.

(iii) Where the NTSB certifies records upon request, the NTSB will charge the direct cost of certification.

(3) *Review.* The NTSB will charge fees for the initial review of a record to determine whether the record falls within the scope of a request, or whether the record is exempt from disclosure. Such fees will be charged to requesters who make a request for commercial purposes. The NTSB will not charge for subsequent review of the request and responsive record; for example, in general, the NTSB will not charge additional fees for review at the administrative appeal level when the NTSB has already applied an exemption. The NTSB will charge review fees at the same rate as those charged for a search under paragraph (c)(1)(ii), above.

(c) *Limitations on charging fees.* For purposes of this section:

(1) The NTSB will not charge a fee for notices, decisions, orders, etc. provided to persons acting as parties in the investigation, or where required by law to be served on a party to any proceeding or matter before the NTSB. Likewise, the NTSB will not charge fees for requests made by family members of accident victims, when the NTSB has investigated the accident that is the subject of the FOIA request.

(2) The NTSB will not charge a search fee for requests from educational institutions or representatives of the news media.

(3) The NTSB will not charge a search fee or review fee for a quarter-hour period unless more than half of that period is required for search or review.

(4) Except for requesters seeking records for commercial use, the NTSB will provide the following items *without* charge:

(i) The first 100 pages of duplication (or the cost equivalent) of a record; and

(ii) The first two hours of search (or the cost equivalent) for a record.

(5) Whenever the total fee calculated under paragraph (c) of this section is $14.00 or less for any request, the NTSB will not charge a fee.

(6) When the NTSB's FOIA Office determines or estimates that fees to be charged under this section will amount to more than $25.00, the Office will notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If the FOIA Office is able to estimate only a portion of the expected fee, the FOIA Office will advise the requester that the estimated fee may be only a portion of the total fee. Where the FOIA Office notifies a requester that the actual or estimated fees will exceed $25.00, the NTSB will not expend additional agency resources on the request until the requester agrees in writing to pay the anticipated total fee. In circumstances involving a total fee that will exceed $250.00, the NTSB may require the requester to make an advance payment or deposit of a specific amount before beginning to process the request.

(7) The NTSB may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided at 31 U.S.C. 3717 and will accrue from the date of the billing until the NTSB receives payment. The NTSB shall follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(8) Where a requester has previously failed to pay a properly charged FOIA fee to the NTSB within 30 days of the date of billing, the NTSB may require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the NTSB begins to process a new request or continues to process a pending request from that requester.

(9) Where the NTSB reasonably believes that a requester or group of requesters acting together is attempting to divide a request into multiple series of requests for the purpose of avoiding fees, the NTSB may aggregate those requests and charge accordingly.

(d) *Requirements for waiver or reduction of fees.* For fee purposes, the NTSB will determine, whenever reasonably possible, the use to which a requester will put the requested records.

(1) The NTSB will furnish records responsive to a request without charge, or at a reduced charge, where the NTSB determines, based on all available information, that the requester has shown that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations of activities of the government, and

(ii) Disclosure of the requested information is not primarily in the commercial interest or for the commercial use of the requester.

(2) In determining whether disclosure of the requested information is in the public interest, the NTSB will consider the following factors:

(i) Whether the subject of the requested records concerns identifiable operations or activities of the federal government, with a connection that is direct and clear, and not remote or attenuated. In this regard, the NTSB will consider whether a requester's use of the documents would enhance transportation safety or contribute to the NTSB's programs.

(ii) Whether the portions of a record subject to disclosure are meaningfully informative about government operations or activities. The disclosure of information already in the public domain, in either a duplicative or substantially identical form, would not be as likely to contribute to such understanding where nothing new would be added to the public's understanding.

(iii) Whether disclosure of the requested information would contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. The NTSB will consider a requester's expertise in the subject area and ability to effectively convey information to the public.

(iv) Whether the disclosure is likely to enhance the public's understanding of government operations or activities.

(3) In determining whether the requester is primarily in the commercial interest of the requester, the NTSB will consider the following factors:

(i) The existence and magnitude of any commercial interest the requester may have, or of any person on whose behalf the requester may be acting. The NTSB will provide requesters with an opportunity in the administrative process to submit explanatory information regarding this consideration.

(ii) Whether the commercial interest is greater in magnitude than any public interest in disclosure.

(4) Additionally, the NTSB may, at its discretion, waive publication, reproduction, and search fees for qualifying foreign countries, international organizations, nonprofit public safety entities, State and Federal transportation agencies, and colleges and universities, after approval by the Chief, Records Management Division.

(5) Where only some of the records to be released satisfy the requirements for a waiver of fees, the NTSB will grant a waiver for those particular records.

(6) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (e)(2) and (e)(3) of this section, insofar as they apply to each request. The NTSB will exercise its discretion to consider the cost-effectiveness of its use of administrative resources in determining whether to grant waivers or reductions of fees.

(e) Services available free of charge.

(1) The following documents are available without commercial reproduction cost until limited supplies are exhausted:

(i) Press releases;

(ii) Safety Board regulations (Chapter VIII of Title 49, Code of Federal Regulations);

(iii) Indexes to initial decisions, Board orders, opinion and orders, and staff manuals and instructions;

(iv) Safety recommendations; and

(v) NTSB Annual Reports.

(2) The NTSB public Web site, located at *http://www.ntsb.gov*, also includes an e-mail subscription service for press releases, safety recommendations, and other announcements.

§ 801.61 Appeals of fee determinations.

Requesters seeking an appeal of the FOIA Officer's fee or fee waiver determination must send a written appeal to the NTSB's Managing Director within 20 days. The NTSB's Managing Director will determine whether to grant or deny any appeal made pursuant to § 801.21 within 20 working days (excluding Saturdays, Sundays, and legal public holidays) after receipt of such appeal, except that this time limit may be extended for as many as 10 additional working days, in accordance with § 801.23.

Dated: April 10, 2007.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. E7–7103 Filed 4–13–07; 8:45 am]

BILLING CODE 7533–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01; I.D. 040907D]

Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using pot or hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully use the 2007 total allowable catch (TAC) of Pacific cod specified for catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 30, 2007, through 2400 hrs, A.l.t., December 31, 2007. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 30, 2007.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- Mail to: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;
- FAX to 907–586–7557;
- E-mail to *inseason-akr@noaa.gov* and include in the subject line and body of the e-mail the document identifier: bspclt60re.fo.wpd (E-mail comments, with or without attachments, are limited to 5 megabytes); or
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*.

Follow the instructions at that site for submitting comments.

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

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

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI under § 679.20(d)(1)(iii) on March 30, 2007 (72 FR 15848, April 3, 2007).

NMFS has determined that as of April 6, 2007, approximately 411 metric tons of Pacific cod remain in the 2007 Pacific cod TAC allocated to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI. Therefore, in accordance with § 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to fully use the 2007 TAC of Pacific cod specified for catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI. The opening is effective 1200 hrs, A.l.t., April 30, 2007, through 2400 hrs, A.l.t., December 31, 2007.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 6, 2007.

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

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until April 30, 2007.

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

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

Dated: April 10, 2007

James P. Burgess

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

[FR Doc. E7–7192 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 72
Monday, April 16, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Docket No. AMS–FV–07–0028; FV07–925–1 PR]

Grapes Grown in a Designated Area of Southeastern California; Change in Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on a revision to the reporting requirements established under the California desert grape marketing order, which regulates the handling of grapes grown in a designated area of Southeastern California. The marketing order is administered locally by the California Desert Grape Administrative Committee (CDGAC or committee). This rule would require handlers to provide an annual report to the committee which lists the acreages devoted to grapes for fresh shipment, the owners and locations of the acreages, and varieties produced thereon that the handler will be handling during the upcoming season. This change would allow the committee to collect information on the acreage and varieties of desert grapes regulated under the marketing order, thus improving data collection and the efficient operation of the program.

DATES: Comments must be received by May 1, 2007.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Terry.Vawter@usda.gov* or *Kurt.Kimmel@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement and Order No. 925, both as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would change the reporting requirement under the order by requiring handlers to file an annual acreage survey which lists the acreages devoted to grapes, the locations and owners of the acreage, and varieties produced thereon for fresh shipment that the handler will be handling during the upcoming season. The form would provide information necessary for the committee to estimate annual production, determine the necessary assessment rate, and establish an annual budget of expenses. This change was unanimously recommended by the committee at a meeting on February 6, 2007.

Section 925.60 provides authority for the committee, with the approval of USDA, to require handlers to furnish information to the committee. Currently, § 925.60(a) requires handlers to file reports of shipments of grapes. Under § 925.60(b), the committee is authorized, with the approval of USDA, to require handlers to furnish such other information as it may prescribe and may be necessary to enable the committee to perform its duties under the order.

The acreage survey is currently an approved form authorized for use by the committee. The form was initially included so that the committee could, at some future time, recommend requiring handlers to use the form if it was determined that aggregating information on grape acreage would provide a benefit to the industry.

The committee met on February 6, 2007, and discussed the grape acreage survey. At this time, the committee believes the report would provide valuable information and unanimously recommended that it be a mandatory report, such as those authorized under § 925.60. This change is intended to enhance the efficient operation of the program by permitting the committee to collect production data, which, in turn, would allow them to have more accurate information for establishing a crop estimate, determining an assessment rate, and developing an annual budget of expenses.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 producers of grapes in the production area and approximately 20 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those having annual receipts less than $750,000 and defines small agricultural service firms as those whose annual receipts are less than $6,500,000.

Last year, six of the 20 handlers subject to regulation had annual grape sales of at least $6,500,000. In addition, 10 of the 50 producers had annual sales of at least $750,000. Therefore, a majority of handlers and producers may be classified as small entities.

This rule would revise § 925.160 of the order's rules and regulations to include the requirement that handlers file an annual grape acreage survey.

This rule would impose minimal additional costs on handlers regulated under the order. The benefits of this proposed rule are not expected to be disproportionately greater or less for small handlers than for large entities.

At the meeting, the committee discussed an alternative to this change, which would be to ask handlers to voluntarily report grape acreage. However, under voluntary reporting, it is possible that all handlers would not report the information, making it difficult for the committee to aggregate accurate information used in determining the committee's crop estimate, assessment rate, and budget of expenses. The committee agreed that this alternative would not be in the best interest of the committee and the industry, and unanimously recommended mandating the report.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule are currently approved by the Office of Management and Budget (OMB), under OMB No. 0581–0189, Generic OMB Fruit Crops. This rule would impose minimal additional reporting or recordkeeping requirements, deemed to be insignificant, on both small and large grape handlers.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

Further, the committee's meeting on February 6, 2007, was widely publicized throughout the desert grape industry and all interested persons were encouraged to attend the meeting and participate in committee deliberations. Like all committee meetings, the February 6, 2007, meeting was a public meeting; and all entities, both large and small, were encouraged to express their views on this issue. All interested persons were invited to attend this meeting and encouraged to participate in the industry's deliberations.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place as soon as possible since the shipping season begins April 20. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 925.160, the current paragraph is redesignated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 925.160 Reports.

(a) * * *

(b) When requested by the California Desert Grape Administrative Committee (CDGAC), each shipper who ships grapes shall furnish to the committee at such time as the committee shall require, an annual grape acreage survey (CDGAC Form 7), which shall include, but is not limited to, the following: the applicable year in which the report is requested; the names of the shipper (handler) who will handle the grapes and the grower who produces them; the location of each vineyard; the variety or varieties grown in each vineyard; and the bearing, non-bearing, and total acres of each vineyard.

Dated: April 11, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–7179 Filed 4–13–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM365 Special Conditions No. 25–07–02–SC]

Special Conditions: Boeing Model 787–8 Airplane; Systems and Data Networks Security—Protection of Airplane Systems and Data Networks From Unauthorized External Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 787–8 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. The architecture of the Boeing Model 787–8 systems and networks allows access to external systems and networks, including the public Internet.

On-board wired and wireless devices may also have access to parts of the airplane's digital systems that provide flight critical functions. These new connectivity capabilities may result in security vulnerabilities to the airplane's critical systems. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for protection and security of airplane systems and data networks against unauthorized access. 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. Additional special conditions will be issued for other novel or unusual design features of the Boeing Model 787–8 airplanes.

DATES: Comments must be received on or before May 31, 2007.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM365, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked Docket No. NM365. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Will Struck, FAA, Airplane and Flight Crew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2764; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons 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. The docket is available for public inspection 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 based on 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 March 28, 2003, Boeing applied for an FAA type certificate for its new Boeing Model 787–8 passenger airplane. The Boeing Model 787–8 airplane will be an all-new, two-engine jet transport airplane with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

Type Certification Basis

Under provisions of 14 CFR 21.17, Boeing must show that Boeing Model 787–8 airplanes (hereafter referred to as ''the 787'') meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–117, except 25.809(a) and 25.812, which will remain at Amendment 25–115. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the 787 because of a novel or unusual design feature, special conditions are prescribed under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the 787 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 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 or similar novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The digital systems architecture for the 787 consists of several connected networks. This proposed network architecture is used for a diverse set of functions, including the following.

1. Flight-safety-related control and navigation systems (Aircraft Control Domain).
2. Airline business and administrative support (Airline Information Services Domain).
3. Passenger entertainment, information, and Internet services (Passenger Information and Entertainment Services Domain).

The proposed architecture of the 787 is different from that of existing production (and retrofitted) airplanes. It allows connection to and access from external sources (the public Internet) and airline operator networks to the previously isolated Aircraft Control Domain and Airline Information Services Domain. The Aircraft Control Domain and the Airline Information Services Domain perform functions required for the safe operation of the airplane.

Capability is proposed for providing electronic transmission of field-loadable software applications and databases to the aircraft. These would subsequently be loaded into systems within the Aircraft Control Domain and Airline Information Services Domain. Also, it may be proposed that on-board wired and wireless devices have access to the Aircraft Control Domain and Airline Information Services Domain. These new connectivity capabilities and features of the proposed design may result in security vulnerabilities from intentional or unintentional corruption of data and systems critical to the safety and maintenance of the airplane. The existing regulations and guidance material did not anticipate this type of system architecture or Internet and wireless electronic access to aircraft systems that provide flight critical functions. Furthermore, 14 CFR regulations and current system safety assessment policy and techniques do not address potential security vulnerabilities that could be caused by unauthorized external access to aircraft data buses and servers. Therefore, a special condition is proposed to ensure the security, integrity and availability of the critical systems within the Aircraft Control Domain and Airline Information Services Domain by establishing requirements for:

1. Protection of Aircraft Control Domain and Airline Information

Services Domain systems, hardware, software, and databases from unauthorized access.

2. Protection of field-loadable software (FLS) applications and databases which are electronically transmitted from external sources to the on-aircraft networks and storage devices, and used within the Aircraft Control Domain and Airline Information Services Domain.

Applicability

As discussed above, these proposed special conditions are applicable to the 787. Should Boeing 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 proposed special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the 787. It is not a rule of general applicability, and it affects only the applicant that 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, the Administrator of the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 787–8 airplane.

The applicant shall ensure system security protection for the Aircraft Control Domain and Airline Information Services Domain from unauthorized external access. The applicant shall also ensure that security threats are identified and risk mitigation strategies are implemented to minimize the likelihood of occurrence of each of the following conditions:

1. Reduction in airplane safety margins or airplane functional capabilities, including those possibly caused by maintenance activity;

2. An increase in flightcrew workload or conditions impairing flightcrew efficiency, and;

3. Distress or injury to airplane occupants.

Issued in Renton, Washington, on April 5, 2007.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 07–1838 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 150 and 152 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 150 and 152 airplanes. This proposed AD would require replacing the rudder stop, rudder stop bumper, and attachment hardware with a new rudder stop modification kit. This proposed AD also requires replacing the safety wire with jamnuts. This proposed AD results from two accidents where the rudder was found in the over-travel position with the stop plate hooked over the stop bolt heads. We are proposing this AD to prevent the rudder from traveling past the normal travel limit and becoming jammed in the over-travel position. This condition could result in loss of control.

DATES: We must receive comments on this proposed AD by June 15, 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.
- 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.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.

For service information identified in this proposed AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 942–9006.

FOR FURTHER INFORMATION CONTACT: Gary Park, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4123; fax: (316) 946–4107.

SUPPLEMENTARY INFORMATION

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2007–27747; Directorate Identifier 2007–CE–030–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Discussion

This AD results from two spin accidents involving Cessna Model 152 airplanes where the rudder was found in the over-travel position with the stop plate hooked over the stop bolt heads.

In the first accident, which occurred in Canada, a flight instructor and student pilot were unable to recover after performing a spin maneuver. When the airplane was inspected, the rudder was found jammed.

In the second accident the rudder bumper was found to be installed incorrectly, which resulted in a rudder jam during an attempted spin recovery.

Upon recovery of the airplanes after the accidents, both accident airplanes had their rudder stop plates hooked over the stop bolts. After examining the accident airplanes and other Cessna Models 150 and 152 airplanes, accident investigators determined that, under certain conditions, it is possible to jam the rudder past its normal travel limit. The jam occurs when the stop plate is forced aft of the stop bolt head. The forward edge of the stop plate can then become lodged under the head of the stop bolt causing the rudder to jam in this over-travel position. Recovery from a spin may not be possible with the rudder jammed beyond the normal rudder travel stop limits.

This condition, if not corrected, could result in loss of control.

Relevant Service Information

We have reviewed the following Cessna Aircraft Company service information, dated January 22, 2001:

- Service Bulletin SEB01–1;
- Service Kit SK152–25; and
- Service Kit SK152–24.

The service information describes procedures for replacing the rudder stop, rudder stop bumper, and attachment hardware with a new rudder stop modification kit. The service information also describes the procedure for replacing the safety wire with jamnuts.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This proposed AD would require replacing the rudder stop, rudder stop bumper, and attachment hardware with a new rudder stop modification kit. This proposed AD also requires replacing the safety wire with jamnuts.

Costs of Compliance

We estimate that this proposed AD would affect 18,670 airplanes in the U.S. registry.

We estimate the following costs to do the proposed modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 work-hours × $80 per hour = $320	$60	$380	$7,094,600

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Cessna Aircraft Company: Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by June 15, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Models	Serial numbers
(1) 150F	15061533 through 15064532.
(2) 150G	15064533 through 15064969 and 15064971 through 15067198.
(3) 150H	15067199 through 15069308 and 649.
(4) 150J	15069309 through 15071128.
(5) 150K	15071129 through 15072003.
(6) 150L	15072004 through 15075781.
(7) 150M	15075782 through 15079405.
(8) A150K	A1500001 through A1500226.
(9) A150L	A1500227 through A1500432 and A1500434 through A1500523.
(10) A150M	A1500524 through A1500734 and 15064970.
(11) A–150L	A–1501001 through A–1501039.
(12) A–A150L	A–A1500001 through A–A1500009.

Models	Serial numbers
(13) F150F	F150–0001 through F150–0067.
(14) F150G	F150–0068 through F150–0219.
(15) F150H	F150–0220 through F150–0389.
(16) F150J	F150–0390 through F150–0529.
(17) F150K	F15000530 through F15000658.
(18) F150L	F15000659 through F15001143.
(19) F150M	F15001144 through F15001428.
(20) FA150K	FA1500001 through FA1500081.
(21) FA150L	FA1500082 through FA1500261.
(22) FA150M	FA1500262 through FA1500336.
(23) 152	15279406 through 15286033.
(24) A152	A1520735 through A1521049, A1500433, and 681.
(25) F152	F15201429 through F15201980.
(26) FA152	FA1520337 through FA1520425.

Unsafe Condition

(d) This AD results from two accidents where the rudder was found in the over-travel position with the stop plate hooked over the stop bolt heads. We are issuing this AD to prevent the rudder from traveling past the normal travel limit and becoming jammed in the over-travel position. This condition could result in loss of control.

Compliance

(e) To address this problem, you must do the following, unless already done:

Action	Compliance	Procedures
(1) *For airplanes with a forged bulkhead:* Replace the rudder stop, rudder stop bumper, and attachment hardware with the new rudder stop modification kit SK152–25; and replace safety wire with jamnuts.	Within the next 100 hours time-in-service (TIS) or 12 months after the effective date of this AD, whichever occurs first.	Follow Cessna Aircraft Company Service Bulletin SEB01–1, and Cessna Aircraft Company Service Kit SK152–25, both dated January 22, 2001.
(2) *For airplanes with a sheet metal bulkhead:* Replace the rudder stop, rudder stop bumper, and attachment hardware with the new rudder stop modification kit SK152–24; and replace safety wire with jamnuts.	Within the next 100 hours TIS or 12 months after the effective date of this AD, whichever occurs first.	Follow Cessna Aircraft Company Service Bulletin SEB01–1, and Cessna Aircraft Company Service Kit SK152–24, both dated January 22, 2001.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, FAA, ATTN: Gary Park, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4123; fax: (316) 946–4107, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(g) To get copies of the service information referenced in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 942–9006. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov*. The docket number is Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD.

Issued in Kansas City, Missouri, on April 10, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–7180 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2007–HA–0015]

RIN 0720–AB13

32 CFR Part 199

TRICARE; Expansion of Geographic Scope of the TRICARE Retiree Dental Program (TRDP)

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule expands the geographic scope of the TRICARE Retiree Dental Program (TRDP) to overseas locations not currently covered by the program. At this time, TRDP is only applicable in the 50 United States and the District of Columbia, Canada, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. Expanding the geographic scope of the program will ensure that all TRICARE-eligible retirees are eligible for the same dental benefits, regardless of their location. There are no additional Government costs associated with this proposed expansion of TRDP overseas as TRDP costs are borne entirely by enrollees through premium payments.

DATES: Written comments received at the address indicated below by June 15, 2007 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Debra Hatzel, Program Requirements Division, TRICARE Management Activity, telephone (303) 676–3572.

SUPPLEMENTARY INFORMATION: This proposed rule expands the geographic scope of TRDP to overseas locations not currently covered by the program. Although 10 U.S.C. 1076c, does not restrict the geographic availability of the TRDP, per 32 CFR 199.22(b)(3), TRDP is currently limited to the 50 United States and the District of Columbia, Canada, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. Expanding the geographic scope of the program will ensure that all TRICARE-eligible retirees are eligible for the same dental benefits, regardless of their location. This expansion of the geographic scope of the TRDP program is based upon feedback from the TRICARE-eligible retiree community which indicated that there is a demand for this program in all overseas locations.

Although the TRDP is administered in a manner similar to the TDP, there are significant differences in program funding. TDP costs are shared for two of the four eligible categories of TDP enrollees between the enrollees and the Department of Defense; however, for the other two categories of TDP enrollees, and all TRDP enrollees, costs are borne entirely by enrollees through premium payments. Enrollees are also responsible for any dental costs in excess of the TRDP coverage limits, and the contractor is solely responsible for any program costs in excess of annual premium payments.

Therefore, there are no additional Government costs associated with this proposed expansion of TRDP coverage overseas. Specific methods of TRDP program administration, payment rates and procedures, provider licensure and certification requirements, and other program elements may differ by location to the extent necessary for the effective and efficient operation of the plan. These differences may include, but are not limited to, specific provisions for preauthorization of care, varying licensure and certification requirements for foreign providers, and other differences based on limitations in the availability and capabilities of the Uniformed Services overseas dental treatment facilities and a particular nation's civilian sector providers in certain areas.

Regulatory Procedures

Executive Order 12866 directs agencies to assess all costs and benefits available, regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity. The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including having an annual effect on the national economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. DoD has examined the economic, legal, and policy implications of this proposed rule and has concluded that it is a significant regulatory action because it may raise novel legal or policy issues of enhancing the dental health of military retirees and their dependents who reside overseas. The changes set forth in the proposed rule to the existing regulation do not change the basic TRDP benefit structure.

Regulatory Flexibility Act (RFA) requires that each Federal Agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a Regulation which would have a significant impact on a substantial number of small entities. This proposed rule does not have a significant impact on small entities.

This proposed rule is not a major rule under the Congressional Review Act because its economic impact will be less than $100 million.

Executive Order 13132 requires that each Federal Agency shall consult with State and local officials and obtain their input if a rule has federalism implications which 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. We have examined the impact of the proposed rule under Executive Order 13132 and it does not have policies that have federalism implications that would 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; therefore, consultation with State and local officials is not required. This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3511) and which has been approved by OMB under control number 0720–0015. This rule will not change this requirement, but will only increase the number of beneficiaries who are eligible to enroll in the TDRP by approximately 100,000 people. Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Service, Directorate for Information Operations and Reports (0720–0015), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302. Respondents should be aware that notwithstanding any other provision of 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 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.22 is amended by revising paragraph (b)(3) to read as follows:

§ 199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(b) * * *

(3) *Geographic scope.* (i) The TRDP is applicable to authorized providers in the 50 United States and the District of Columbia, Canada, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(ii) The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) may extend the TRDP to geographic areas other than those specified in paragraph (b)(3)(i) of this section. In extending the TRDP overseas, the ASD(HA), or designee, is authorized to establish program elements, methods of administration, and payment rates and procedures that are different from those in effect for the

areas specified in paragraph (b)(3)(i) of this section to the extent the ASD(HA), or designee, determines necessary for the effective and efficient operation of the TRDP. These differences may include, but are not limited to, specific provisions for preauthorization of care, varying licensure and certification requirements for foreign providers, and other differences based on limitations in the availability and capabilities of the Uniformed Services overseas dental treatment facilities and a particular nation's civilian sector providers in certain areas. The Director, TRICARE Management Activity shall issue guidance, as necessary, to implement the provisions of this paragraph. TRDP enrollees residing in overseas locations will be eligible for the same benefits as enrollees residing in the continental United States, although dental services may not be available or accessible in all locations.

* * * * *

Dated: April 10, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E7–7132 Filed 4–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[CGD08–07–004]

RIN 1625–AA00

Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico for Mississippi Canyon Block 920

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a 500 meter safety zone around the oil and natural gas production facility Independence Hub in Mississippi Canyon Block 920 of the Outer Continental Shelf in the Gulf of Mexico. This safety zone is needed to protect the crew of the Independence Hub and vessels operating in the vicinity of the facility. Vessels are prohibited from entering this proposed safety zone with the following exceptions: an attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth Coast Guard District Commander.

DATES: Comments and related material must reach the Coast Guard on or before June 15, 2007.

ADDRESSES: You may mail comments and related material to Commander, Eighth Coast Guard District (dpw), Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA 70130, or comments and related material may be delivered to Room 1230 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 671–2107. Commander, Eighth Coast Guard District (dpw) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the location listed above during the noted time periods.

FOR FURTHER INFORMATION CONTACT: Doug Blakemore, waterways management specialist for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA 70130, telephone (504) 671–2109.

SUPPLEMENTARY INFORMATION:

Requests for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD08–07–004], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (dpw) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish a safety zone around the Independence Hub facility, an oil and natural gas production facility in the Gulf of Mexico in Mississippi Canyon Block 920, located at position 28.085° N, 87.986° W. The Independence Hub is an integrated development of nine gas fields and consists of a deepdraft, column-legged, semi-submersible production platform, a subsea production infrastructure, connecting flowlines and a trunk line terminating at a junction platform in Plaquemines Parish, Louisiana. Anadarko Petroleum Corporation (Anadarko), the lead operator of the Independence Hub, has requested that a safety zone be established 500 meters around the semi-submersible production platform.

Navigation in the vicinity of the proposed safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area. Information provided by Anadarko to the Coast Guard indicates that the location, production levels, and personnel levels on board the facility make it highly likely that any allision with the facility or its mooring system could result in a catastrophic event. The proposed rule would reduce the threat of allisions, oil spills and natural gas releases and increase the safety of life, property, and the environment in the Gulf of Mexico.

Discussion of Proposed Rule

The proposed safety zone would encompass the area within 500 meters from each point on the Independence Hub's structure outer edge. No vessel would be allowed to enter or remain in this proposed safety zone except the following: an attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth Coast Guard District Commander.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. The impacts on routine navigation are expected to be

minimal because the proposed safety zone will not overlap any of the safety fairways within the Gulf of Mexico.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Since the Independence Hub facility will be located far offshore, few privately owned fishing vessels and recreational boats/yachts operate in the area and alternate routes are available for those vessels. Therefore, the Coast Guard expects the impact of this proposed rule on small entities to be minimal.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Doug Blakemore, waterways management specialist for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 500 Poydras Street, New Orleans, LA 70130, telephone (504) 671–2109.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on this proposed rule. This proposed rule might impact tribal governments, even though the impact may not constitute a tribal implication under the rule.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1 paragraph (34)(g), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA.

A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule

should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Water.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

2. Add § 147.845 to read as follows:

§ 147.845 Independence Hub safety zone.

(a) *Description.* The Independence Hub, Mississippi Canyon Block 920, is located at position 28.08505611° N, 87.98583917° W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone. These coordinates are based upon [NAD 83].

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: April 5, 2007.

Richard G. Sullivan,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. E7–7186 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD1–07–008]

RIN 1625–AA00

Safety Zone: Beverly Homecoming Fireworks, Beverly, MA.

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone for the Town of Beverly Homecoming Fireworks in Beverly, Massachusetts currently scheduled to occur on August 5, 2007 temporarily closing all navigable waters of Beverly Harbor within a five hundred (500) yard radius of the fireworks launch barge located at approximate position 42° 32.650 N, 070° 51.980 W. The safety zone is needed to protect the maritime public from the potential hazards posed by a fireworks display. The safety zone will prohibit entry into or movement within this portion of Beverly Harbor during its effective period.

DATES: Comments and related material must reach the Coast Guard on or before May 16, 2007.

ADDRESSES: You may mail comments and related material to Sector Boston 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–07–008), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may, however submit a request for a meeting by writing to Sector Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This proposed rule establishes a safety zone on the navigable waters of Beverly Harbor within a five hundred (500) yard radius of the fireworks launch barge located at approximate position 42° 32.650 N, 070° 51.980 W. The safety zone would be in effect from 8:30 p.m. EDT until 11:30 p.m. EDT on August 5, 2007.

This safety zone would temporarily prohibit entry into or movement within the effected portion of Beverly Harbor and is needed to protect the maritime public from the potential dangers posed by a fireworks display.

Discussion of Proposed Rule

The Coast Guard proposes establishing a temporary safety zone in a portion of Beverly Harbor. The safety zone would be in effect from 8:30 p.m. EDT until 11:30 p.m. EDT on August 5, 2007. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of Beverly Harbor except for the portion delineated by this rule. This safety zone will control vessel traffic during the fireworks event to protect the safety of the maritime public.

Due to the limited time frame of the firework display and because the zone leaves the majority of Beverly Harbor open for navigation, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this rule would prevent vessel traffic from transiting a portion of Beverly Harbor during the fireworks event, the effect of this regulation would not be significant for several reasons: vessels will be excluded from the proscribed area for only three hours, vessels will be able to operate in the majority of Beverly Harbor during this time period; and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portion of Beverly Harbor from 8:30 p.m. EDT on August 5, 2007 until 11:30 p.m. EDT on August 5, 2007.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: vessel traffic can safely pass outside of the safety zone during the effective period; the effective period is limited in duration, and advance notifications via safety marine informational broadcast and local notice to mariners will be made to the local maritime community.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Joseph Yonker at the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under 2.B.2 of the Instruction. Therefore, we believe that this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would establish a safety zone. A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under

ADDRESSES. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T07–008 to read as follows:

§ 165.T07–008 Safety Zone: Beverly Homecoming Fireworks—Beverly, Massachusetts.

(a) *Location.* The following area is a safety zone:

All navigable waters of Beverly Harbor within a 500 yard radius of the fireworks launch barge located at approximate position 42° 32.650 N, 070° 51.980 W.

(b) *Effective Date.* This section is effective from 8:30 p.m. EDT on August 5, 2007 until 11:30 p.m. EDT on August 5, 2007.

(c) *Definitions.* (1) As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) *[Reserved]*

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston or the designated representative.

(2) All vessel operators shall comply with the instructions of the COTP or the designated representative.

Dated: April 5, 2007.

J.L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. E7–7177 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD1–07–001]

RIN 1625–AA00

Safety Zone; Town of Marblehead Fourth of July Fireworks Display, Marblehead Harbor, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone for the Town of Marblehead Fourth of July Fireworks. This safety zone is necessary to protect the life and property of the maritime public from the potential hazards associated with a fireworks display. The safety zone would temporarily prohibit entry into or movement within this portion of Marblehead Harbor during the closure period.

DATES: Comments and related material must reach the Coast Guard on or before May 16, 2007.

ADDRESSES: You may mail comments and related material to Sector Boston, 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01–07–001 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for the rulemaking (CGD01–07–001), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may, however submit a request for a meeting by writing to Sector Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This rule proposes to establish a safety zone on the waters of Marblehead Harbor within a 500-yard radius of the fireworks barge located at approximate position 42° 30′.567″ N, 070° 50′.162″ W. The safety zone would be in effect from 8:30 p.m. until 10 p.m. EDT on July 4, 2007. The rain date for the fireworks event is from 8:30 p.m. until 10 p.m. EDT on July 5, 2007.

The safety zone would temporarily restrict movement within this effected portion of Marblehead Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside the safety zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period of this proposed rule via safety marine information broadcasts and Local Notice to Mariners.

Discussion of Proposed Rule

The Coast Guard is proposing to establish a temporary safety zone in Marblehead Harbor, Marblehead, Massachusetts. The safety zone would be in effect from 8:30 p.m. until 10 p.m. EDT on July 4, 2007, with a rain date of 8:30 p.m. until 10 p.m. EDT on July 5, 2007. Marine traffic may transit safely outside of the safety zone in the majority of Marblehead Harbor during the event. This safety zone will control vessel traffic during the fireworks display to protect the safety of the maritime public.

Due to the limited time frame of the fireworks display, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local media, local notice to mariners and marine information broadcasts.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866,

Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this proposed rule would prevent traffic from transiting a portion of Marblehead Harbor during the effective period, the effects of this rule will not be significant for several reasons: vessels will be excluded from the proscribed area for only one and one half hours, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portion of Marblehead Harbor from 8:30 p.m. EDT on July 4, 2007 to 10 p.m. EDT on July 4, 2007 or during the same hours on July 5.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: this proposed rule would be in effect for only one and one half hours, vessel traffic can safely pass around the safety zone during the effected period, and advance notification via safety marine informational broadcast and Local Notice to Mariners will be made before and during the effective period.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Joseph Yonker at the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or

adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Coast Guard Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would establish a safety zone. A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–001 to read as follows:

§ 165.T01–001 Safety Zone; Town of Marblehead Fourth of July Fireworks Display, Marblehead, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of Marblehead Harbor within a 500-yard radius of the fireworks barge located at approximate position 42°30′567″ N, 070°50′162″ W.

(b) *Effective date.* This section is effective from 8:30 p.m. until 10 p.m. EDT on July 4, 2007, with a Rain date of 8:30 p.m. until 10 p.m. EDT on July 5, 2007.

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

(1) *Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) *[Reserved]*

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston or the designated representative.

(2) All vessel operators shall comply with the instructions of the COTP or the designated representative.

Dated: April 5, 2007.

James L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. E7–7185 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD1–07–002]

RIN 1625–AA00

Safety Zone: Town of Weymouth Fourth of July Celebration Fireworks, Weymouth, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone for the Town of Weymouth's Fourth of July Celebration Fireworks in Weymouth, Massachusetts currently scheduled to occur on June 30, 2007 with a rain date of July 1, 2007 temporarily closing all navigable waters of the Weymouth Fore River within a five hundred (500) yard radius of the fireworks launch barge located at approximate position 42°15.2 N, 070°56.7 W. The safety zone is needed to protect the maritime public from the potential hazards posed by a fireworks display. The safety zone will prohibit entry into or movement within this portion of the Weymouth Fore River during its effective period.

DATES: Comments and related material must reach the Coast Guard on or before May 16, 2007.

ADDRESSES: You may mail comments and related material to Sector Boston, 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–07–002), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. You may, however submit a request for a meeting by writing to Sector Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This proposed rule establishes a safety zone on the navigable waters of the Weymouth Fore River within a five hundred (500) yard radius of the fireworks launch barge located at approximate position 42°15.2 N, 070°56.7 W. The safety zone would be in effect from 8:30 p.m. EDT until 11:15 p.m. EDT on June 30, 2007, with a rain date of July 1, 2007.

This safety zone would temporarily prohibit entry into or movement within the effected portion of the Weymouth Fore River and is needed to protect the maritime public from the potential dangers posed by a fireworks display.

Discussion of Proposed Rule

The Coast Guard proposes establishing a temporary safety zone in

a portion of the Weymouth Fore River. The safety zone would be in effect from 8:30 p.m. EDT until 11:15 p.m. EDT on June 30, 2007 with a rain date of July 1, 2007. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the Weymouth Fore River except for the portion delineated by this rule. This safety zone will control vessel traffic during the fireworks event to protect the safety of the maritime public.

Due to the limited timeframe of the firework display and because the zone leaves the majority of the Weymouth Fore River open for navigation, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this rule would prevent vessel traffic from transiting a portion of the Weymouth Fore River during the fireworks event, the effect of this regulation would not be significant for several reasons: Vessels will be excluded from the proscribed area for only two and three quarter hours, vessels will be able to operate in the majority of the Weymouth Fore River during this time period; and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the effected portion of the Weymouth Fore River from 8:30 p.m. EDT on June 30, 2007 until 11:15 p.m. EDT on June 30, 2007 with a rain date of July 1, 2007.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely pass outside of the safety zone during the effective period; the effective period is limited in duration, and advance notifications via safety marine informational broadcast and local notice to mariners will be made to the local maritime community.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Joseph Yonker at the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under 2.B.2 of the Instruction. Therefore, we believe that this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34) (g), as it would establish a safety zone. A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–002 to read as follows:

§ 165.T01–002 Safety Zone: Town of Weymouth Fourth of July Celebration Fireworks—Weymouth, Massachusetts.

(a) *Location.* The following area is a safety zone: All navigable waters of the Weymouth Fore River within a 500 yard radius of the fireworks launch barge located at approximate position 42° 15.2 N, 070° 56.7 W.

(b) *Effective Date.* This section is effective from 8:30 p.m. EDT on June 30, 2007 until 11:15 p.m. EDT on June 30, 2007, with a rain date of July 1, 2007.

(c) *Definitions.* (1) As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) *[Reserved]*

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston or the designated representative.

(2) All vessel operators shall comply with the instructions of the COTP or the *designated representative.*

Dated: April 5, 2007.

J.L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. E7–7189 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070321063–7063–01; I.D. 031607E]

RIN 0648–AV22

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2007 Georges Bank Cod Fixed Gear Sector Operations Plan and Agreement and Allocation of Georges Bank Cod Total Allowable Catch

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

ACTION: Proposed rule; request for comments.

SUMMARY: Framework Adjustment (FW) 42 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) created the Georges Bank (GB) Cod Fixed Gear Sector (Fixed Gear Sector) and authorized allocation of up to 20 percent of the annual GB cod total allowable catch (TAC) to the Fixed Gear Sector. Pursuant to that authorization, a representative of the Fixed Gear Sector has submitted an Operations Plan, Sector Agreement (Contract) and requested an allocation of GB cod to the Fixed Gear Sector for fishing year 2007 (FY 2007). A Supplemental Environmental Assessment (EA) has also been prepared. This document provides interested parties an opportunity to comment on the proposed Sector Operations Plan and EA prior to final approval or disapproval of the Sector Operations Plan and allocation of GB cod TAC to the Fixed Gear Sector for FY 2007.

DATES: Written comments must be received on or before May 1, 2007.

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

- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on GB Cod Fixed Gear Sector 2007 Operations Plan.''
- Fax: (978) 281–9135.
- E-mail: *2007FixedGearSector@NOAA.gov*.
- Federal e-Rulemaking Portal: http://www.regulations.gov.

Copies of the Sector Agreement and the EA are available from the NE

Regional Office at the mailing address specified above. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule may be submitted to the address above or by e-mail to David-Rostker@omb.eop.gov, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Mark Grant, Fishery Management Specialist, phone (978) 281–9145, fax (978) 281–9135, e-mail Mark.Grant@NOAA.gov.

SUPPLEMENTARY INFORMATION: The Regional Administrator has made a preliminary determination that the Fixed Gear Sector Contract and Operations Plan is consistent with the goals of the FMP and applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under 50 CFR 648.87. The final rule implementing Amendment 13 (69 FR 22906, April 27, 2004) specified a process for the formation of sectors within the NE multispecies fishery and the allocation of TAC for specific groundfish species (or days-at-sea (DAS)), implemented restrictions that apply to all sectors, and authorized the first sector of the FMP (GB Cod Hook Sector).

FW 42 (71 FR 62156, October 23, 2006) established the Fixed Gear Sector. The FW 42 regulations that apply to the Fixed Gear Sector specify that: (1) all vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Fixed Gear Sector, provided they have documented landings of GB cod through valid dealer reports submitted to NMFS during FY 1996 through 2001 (regardless of gear fished); (2) membership in the Fixed Gear Sector is voluntary, and each member must remain in the Fixed Gear Sector for the entire fishing year and may not fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met; (3) vessels fishing in the Fixed Gear Sector (participating vessels) are confined to fishing in the GB Cod Hook Sector Area, which is that portion of the GB cod stock area north of 39°00′ N. lat. and east of 71°40′ W. long; and (4) participating vessels must comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization, and the provisions of an approved Operations Plan.

Although FW 42 established the Fixed Gear Sector, in order for GB cod to be allocated to the Fixed Gear Sector and the Fixed Gear Sector authorized to fish, the Fixed Gear Sector must submit an Operations Plan and Sector Contract to the Regional Administrator annually for approval. The Operations Plan and Sector Contract must contain certain elements, including a contract signed by all Fixed Gear Sector participants and a plan containing the management rules that the Fixed Gear Sector participants agree to abide by in order to avoid exceeding the allocated TAC. An additional analysis of the impacts of the Fixed Gear Sector's proposed operations may be required in order to comply with the National Environmental Policy Act. Further, the public must be provided an opportunity to comment on the proposed Operations Plan and Sector Contract. The regulations require that, upon completion of the public comment period, the Regional Administrator will make a determination regarding approval of the Sector Contract and Operations Plan. If approved by the Regional Administrator, participating vessels would be authorized to fish under the terms of the Operations Plan and Sector Contract.

The Fixed Gear Sector submitted an initial version of the Operations Plan and Sector Contract to NMFS on January 22, 2007. The Fixed Gear Sector subsequently submitted additional iterations of the Operations Plan to clarify the Operations Plan and refine the analyses, with a final submission date of March 7, 2007. A Supplemental Environmental Assessment was also prepared.

The Fixed Gear Sector would be overseen by a Board of Directors and a Sector Manager. The Sector Contract specifies, in accordance with Amendment 13, that the Sector's GB cod TAC would be based upon the number of Fixed Gear Sector members and their historic landings of GB cod. The GB cod TAC is a ''hard'' TAC, meaning that, once the TAC is reached, Fixed Gear Sector vessels could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations).

The proposed 2007 Operations Plan proposes exemption from the following restrictions of the FMP: GB cod trip limit, the GB Seasonal Closure Area (when fishing with hook gear), the 3,600–hook limit for longline gear in the GB Regulated Mesh Area (RMA), and the 2,000–hook limit in the Gulf of Maine (GOM) and Southern New England (SNE) RMAs. Justification for the proposed exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA. A Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA) is summarized in the Classification section of this proposed rule.

As of March 7, 2007, 19 prospective Fixed Gear Sector members had signed the 2007 Sector Contract. The GB cod TAC calculation is based upon the historic GB cod landings of the participating vessels, using all gear. The allocation percentage is calculated by dividing the sum of total landings of GB cod by Sector members for FY 1996 through 2001, by the sum of the total accumulated landings of GB cod harvested by all NE multispecies vessels for the same time period (12,119,410 lb (5,497 mt)/113,278,842 lb (51,382.4 mt)). The resulting number is 900 mt, or 10.70 percent of the proposed fishery-wide GB cod target TAC of 8,416 mt. If prospective members of the Fixed Gear Sector change their minds about participating in the Fixed Gear Sector after the publication of this proposed rule and prior to a final decision by the Regional Administrator, it is possible that the total number of participants in the Sector and the TAC for the Sector may be reduced from the numbers above, but no additional members may join the Fixed Gear Sector for FY 2007 fishing year.

The Sector Contract contains procedures for the enforcement of the Operations Plan, a schedule of penalties, and provides the authority to the Fixed Gear Sector Manager to issue stop fishing orders to members of the Fixed Gear Sector. Participating vessels would be required to land fish only in designated landing ports and would be required to provide the Fixed Gear Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hrs of offloading. Dealers purchasing fish from participating vessels would be required to provide the Fixed Gear Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Fixed Gear Sector Manager would transmit to NMFS aggregate catch data from dealer slips and aggregate discard data from the VTRs. After 90 percent of the Fixed Gear Sector's allocation has been harvested, the Fixed Gear Sector Manager would be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Fixed Gear Sector's GB cod TAC, minus a reserve, would be allocated to each month of the fishing year. GB cod quota that is not landed during a given month would be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month, participating vessels may not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or

use gear capable of catching regulated NE multispecies. The harvest rules would not preclude vessels from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels would be required to fish under the NE multispecies DAS program regulations to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels would be required to call the Sector Manager prior to leaving port. All legal-sized cod caught would be retained and landed and counted against the Fixed Gear Sector's aggregate allocation. Participating vessels would not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, handgear, or sink gillnets. Participating Fixed Gear Sector vessels fishing with hook gear could use an unlimited number of hooks in the Sector Area and would be exempt from the GB Seasonal Closure Area during May.

The EA prepared for the Fixed Gear Sector operations concludes that the biological impacts of the Fixed Gear Sector will be positive because the hard TAC and the use of DAS will provide two means of restricting both the landings and effort of the Fixed Gear Sector. Implementation would have a positive impact of essential fish habitat (EFH) and bycatch by allowing a maximum number of hook and gillnet vessels to remain active in those fisheries, rather than converting to (or leasing DAS to) other gear types that have greater impacts on EFH. The analysis of economic impacts of the Fixed Gear Sector concludes that the members would realize higher economic returns if the Fixed Gear Sector is implemented. The EA asserts that fishing in accordance with the Sector Contract rules enables more efficient harvesting of GB cod with hook and gillnet gear than would be possible if the vessels were fishing in accordance with the common pool (non-sector) rules. The social benefits of the Fixed Gear Sector would accrue to members as well as the Chatham and Harwichport, MA, communities, which are more dependent upon groundfish revenues than other communities. The supplemental EA concludes that the self-governing nature of the Fixed Gear Sector and the development of rules by the members enables stewardship of the cod resource by the Fixed Gear Sector. The cumulative impacts of the Fixed Gear Sector are expected to be positive due to a positive biological impact, positive impact on habitat, and a positive social and economic impact. In contrast, the cumulative impact of the no action alternative is estimated to be neutral, with negative social and economic impacts.

Should the Regional Administrator approve the Sector Contract as proposed, a Letter of Authorization would be issued to each member of the Fixed Gear Sector exempting them, conditional upon their compliance with the Sector Contract, from the GB cod possession restrictions, the 3,600–hook limit in the GB RMA, the 2,000–hook limit in the GOM and SNE RMAs and the GB Seasonal Closure Area when using hook gear, as specified in §§ 658.86(b)(2), 648.80(a)(4)(v), 648.80(a)(3)(v), 648.80(b)(2)(v) and 648.81(g), respectively.

Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. Below is a summary of the IRFA, which 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 to this proposed rule and in sections 1.0 and 2.0 of the EA prepared for this action. The Small Business Administration size standard for small commercial fishing entities is $4 million in average annual receipts, and the size standard for small charter/party operators is $6.5 million in average annual receipts. While an entity may own multiple vessels, available data make it difficult to determine which vessels may be controlled by a single entity. For this reason, each vessel is treated as a single entity for purposes of size determination and impact assessment. All permitted and participating vessels in the groundfish fishery, including prospective Fixed Gear Sector members, are considered to be small entities because gross sales by any one entity (vessel) do not exceed this threshold. The number of prospective participants in the Fixed Gear Sector is 19, substantially less than the total number of active vessels in the groundfish fishery. Only these 19 vessels would be subject to the regulatory exemptions and operational restrictions proposed for the Fixed Gear Sector for FY 2007.

Economic Impacts of the Proposed Action

The proposed alternative would allocate a GB cod TAC of 900 mt to the Fixed Gear Sector. Once the GB cod TAC is harvested, participating vessels would not be allowed to fish under a NE multispecies DAS, possess or land GB cod, or other regulated species managed under the NE multispecies FMP, or use gear capable of catching groundfish (unless fishing under recreational or charter/party regulations). Vessels intending to fish in the Fixed Gear Sector during the 2007 fishing year may only fish with hook gear or gillnet gear and may not fish for NE multispecies under a NE multispecies DAS during the 2007 fishing year until the Sector Operations Plan is approved. Under the proposed Operations Plan, members would be exempt from several restrictions of the FMP described in the preamble to this proposed rule and in the EA.

The fixed gear fishermen and the Chatham and Harwichport, MA, communities are dependent upon GB cod and other groundfish. The Amendment 13 restrictions that reduced the GB cod trip limit had a disproportionate affect on these fixed gear fishermen. According to Amendment 13, Chatham's overall community dependence on NE multispecies as a percentage of total fisheries revenues from federally permitted vessels averaged about 71 percent and likely at least some of the active groundfish vessels in Chatham and Harwichport are even more than 71% dependent on the multispecies fishery. Because the Fixed Gear Sector was implemented late in the 2006 FY and only one vessel participated, quantitative data on the precise economic impact of the Fixed Gear Sector does not exist. However, a qualitative assessment of the Fixed Gear Sector is possible.

The proposed alternative would positively impact the 19 vessels that have voluntarily joined the Fixed Gear Sector, who are relatively dependent upon cod revenue compared to other participants in the groundfish fishery. The proposed alternative would indirectly benefit the communities of Chatham and Harwichport, MA, and to a lesser extent other Cape Cod, MA, communities involved in the groundfish fishery. Allocation of cod TAC to a sector and the development of alternative fishing restrictions would mitigate the impacts of Amendment 13. Specifically, the proposed Operations

Plan enables Fixed Gear Sector members to fish under a set of rules crafted by Fixed Gear Sector members in order to adapt to current economic and fishing conditions. The Fixed Gear Sector, by fishing under rules that are designed to meet their needs (as well as the conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which result in economic gains. For example, Fixed Gear Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are able to maximize their efficiency (revenue per trip), by targeting seasonal aggregations of cod, due to the exemption from trip limits and hook numbers. Thus, this proposed rule would enable Fixed Gear Sector members to remain economically viable by maximizing revenues and minimizing expenses in the short term. This would also help to maintain associated shoreside job opportunities.

Economic Impacts of Alternatives to the Proposed Action

Under the No Action alternative, all Fixed Gear Sector members would remain in the common pool of vessels and fish under all the rules implemented by Amendment 13 and subsequent Framework Adjustments, and there would be no allocation of GB cod to the Fixed Gear Sector. Because cod usually represents a high proportion of total fishing income for Cape Cod-based gillnet and hookgear vessels, revenues for such vessel owners are very sensitive to regulations that impact how and when they can fish for cod, such as trip limits and restrictions on the number of hooks fished. Under the common pool rules implemented by FW 42 (e.g., differential DAS counting) and Amendment 13 (restrictive daily trip limits for cod), it is likely that Fixed Gear Sector vessels would experience revenue losses. It is more likely under the No Action alternative that disruption to the Chatham/Harwichport communities would occur.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0202. Public reporting burden for the Submission of a Plan of Operation for an Approved Sector Allocation is estimated to average 50 hr per response, and for the Annual Reporting Requirements for Sectors is estimated to average 6 hr per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to David__Rostker@omb.eop.gov, or fax to (202) 395–7285. Nothwithstanding 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.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on proposed TAC allocations and plans of operation of sectors.

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

Dated: April 11, 2007.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 07–1882 Filed 4–12–07; 10:41 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070322064–7064–01; I.D. 030607E]

RIN 0648–AV20

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2007 Georges Bank Cod Hook Sector Operations Plan and Agreement and Allocation of Georges Bank Cod Total Allowable Catch

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

ACTION: Proposed rule; request for comments.

SUMMARY: Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) (Amendment 13) authorized allocation of up to 20 percent of the annual Georges Bank (GB) cod total allowable catch (TAC) to the GB Cod Hook Sector (Sector). Pursuant to that authorization, the Sector has submitted an Operations Plan and Sector Contract entitled, ''Georges Bank Cod Hook Sector Fishing Year 2007–2008 Operations Plan and Agreement'' (together referred to as the Sector Agreement) and has requested an allocation of GB cod, consistent with regulations implementing Amendment 13. A Supplemental Environmental Assessment has also been prepared. This document provides interested parties an opportunity to comment on the proposed Sector Agreement prior to final approval or disapproval of the Sector Operations Plan and allocation of GB cod TAC to the Sector for the 2007 fishing year (FY).

DATES: Written comments must be received on or before May 1, 2007.

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

- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on GB Cod Hook Sector Operations Plan.''
- Fax: (978) 281–9135.
- E-mail: *gbhooksctr@noaa.gov*.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*.

Copies of the Sector Agreement and the EA are available from the NE Regional Office at the mailing address specified above. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule may be submitted to the address above or by e-mail to *David-Rostker@omb.eop.gov*, or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone (978) 281–9347, fax (978) 281–9135, e-mail *Thomas.Warren@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination that the Sector Agreement, which contains the Sector Contract and Operations Plan, is consistent with the goals of the FMP and applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under 50 CFR 648.87. The final rule implementing Amendment 13 (69 FR 22906, April 27, 2004) specified a process for the formation of sectors within the NE multispecies fishery and

the allocation of TAC for a specific groundfish species (or days-at-sea (DAS)), implemented restrictions that apply to all sectors, authorized the GB Cod Hook Sector, established the GB Cod Hook Sector Area (Sector Area), and specified a formula for the allocation of GB cod TAC to the Sector.

The principal Amendment 13 regulations applying to the Sector specify that: (1) all vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Sector, provided they have documented landings, through valid dealer reports submitted to NMFS, of GB cod during FY 1996 through 2001 when fishing with hook gear (i.e., jigs, demersel longline, or handgear); (2) membership in the Sector is voluntary, and each member is required to remain in the Sector for the entire fishing year and cannot fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met; (3) vessels fishing in the Sector (participating vessels) are confined to fishing in the Sector Area, which is that portion of the GB cod stock area north of 39° 00′ N. lat. and east of 71° 40′ W. long; and (4) participating vessels are required to comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization issued by the Regional Administrator, and the provisions of an approved Operations Plan.

While Amendment 13 authorized the Sector, in order for GB cod to be allocated to the Sector and the Sector authorized to fish, the Sector must submit an Operations Plan and Sector Contract to the Regional Administrator annually for approval. The Operations Plan and Sector Contract must contain certain elements, including a contract signed by all Sector participants and a plan containing the management rules that the Sector participants agree to abide by in order to avoid exceeding the allocated TAC. An additional analysis of the impacts of the Sector's proposed operations may also be required in order to comply with the National Environmental Policy Act. Further, the public must be provided an opportunity to comment on the proposed Operations Plan and Sector Contract. The regulations require that, upon completion of the public comment period, the Regional Administrator will make a determination regarding approval of the Sector Contract and Operations Plan. If approved by the Regional Administrator, participating vessels would be authorized to fish under the terms of the Operations Plan and Sector Contract.

The Sector was authorized for FY 2006 and, based upon the GB cod landings history of its 37 members, was allocated 615 mt of cod, which is 10.03 percent of the total FY 2006 GB cod TAC.

On January 22, 2007, the Sector Manager submitted to NMFS the Georges Bank Cod Hook Sector Fishing Year 2007–2008 Operations Plan and Agreement. A supplemental EA entitled ''Approval of the Georges Bank Cod Hook Sector Operations Plan,'' which analyzes the impacts of the proposed Sector Agreement, was also prepared.

The proposed 2007 Sector Agreement and Operations Plan contains the same elements as the 2006 Sector Agreement. The Sector Agreement would be overseen by a Board of Directors and a Sector Manager. The Sector Agreement specifies, in accordance with Amendment 13, that the Sector's GB cod TAC would be based upon the number of Sector members and their historic landings of GB cod. The GB cod TAC is a ''hard'' TAC, meaning that, once the TAC is reached, Sector vessels could not fish under a DAS, possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations). Should the hard TAC be exceeded, the Sector's allocation would be reduced by the overharvest in the following year.

The proposed 2007 Operations Plan proposes an exemption from the following restrictions of the FMP: The GB cod trip limit; the GB and Southern New England (SNE) limit on the number of hooks fished; the GB seasonal closure; the DAS Leasing Program vessel size restrictions; Differential DAS in the Gulf of Maine Differential DAS Area and in the SNE Differential DAS Area (those portions of the differential areas which overlap the Sector Area); and the Western U.S./Canada Area 72–hr observer program notification. Justification for the proposed exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA. A Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA) is summarized in the Classification section of this proposed rule.

As of February 1, 2007, 35 prospective Sector members had signed the 2007 Sector Contract. The GB cod TAC calculation is based upon the historic cod landings of the participating Sector vessels, regardless of gear used. The allocation percentage is calculated by dividing the sum of total landings of GB cod landed by Sector members in FY 1996 through 2001, by the sum of the total accumulated landings of GB cod landed by all NE multispecies vessels for the same time period (10,738,834 lb (4,871.1 mt)/113,278,842 lb (51,382.42 mt)). Based upon the 35 prospective Sector members, the Sector TAC of GB cod would be 798 mt (9.48 percent times the fishery-wide GB cod target TAC of 8,416 mt). The fishery-wide GB cod target TAC of 8,416 mt is less than the total GB cod target TAC proposed for FY 2007 (9,822 mt) because the 9,822 mt includes Canadian catch. If prospective members of the Sector determine that they no longer want to participate in the sector after the publication of this document and prior to a final decision by the Regional Administrator, it is possible that the total number of participants in the Sector and the TAC for the Sector may differ from the numbers above. The Sector Agreement contains procedures for the enforcement of the Sector rules, a schedule of penalties, and provides the authority to the Sector Manager to issue stop fishing orders to members of the Sector. Participating vessels would be required to land fish only in designated landing ports and would be required to provide the Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hr of offloading. Dealers purchasing fish from participating vessels would be required to provide the Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Sector Manager would transmit to NMFS a copy of the VTRs and the aggregate catch information from these reports. After 90 percent of the Sector's allocation has been harvested, the Sector Manager would be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Sector's GB cod TAC, minus a reserve, would be allocated to each month of the fishing year. GB cod quota that is not landed during a given month would be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month, participating vessels could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies. Once the annual TAC of GB cod is reached, Sector members could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies for the rest of the fishing year. The harvest rules would not preclude vessels from fishing under the charter/party or recreational regulations, provided the vessel fishes

under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels would be required to fish under the NE multispecies DAS program to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels would be required to call the Sector Manager prior to leaving port. All legal-sized cod caught would be retained and landed and counted against the Sector's aggregate allocation. Participating vessels would not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, or handgear. NE multispecies DAS used by participating vessels while conducting fishery research under an Exempted Fishing Permit during the FY 2007 would be deducted from that Sector member's individual DAS allocation. Similarly, all GB cod landed by a participating vessel while conducting research would count toward the Sector's allocation of GB cod TAC. Participating vessels would be exempt from the GB Seasonal Closure Area during May.

The EA prepared for the Sector operations concludes that the biological impacts of the Sector will be positive because the hard TAC and the use of DAS will provide two means of restricting both the landings and effort of the Sector. Implementation of the Sector would have a positive impact on essential fish habitat (EFH) and bycatch by allowing a maximum number of hook vessels to remain active in the hook fishery, rather than converting to (or leasing DAS to) other gear types that have greater impacts on EFH. The analysis of economic impacts of the Sector concludes that Sector members would realize higher economic returns if the Sector were implemented. The EA asserts that fishing in accordance with the Sector Agreement rules enables more efficient harvesting of GB cod with hook gear than would be possible if the vessels were fishing in accordance with the common pool (non-Sector) rules. The social benefits of the Sector would accrue to Sector members, as well as the Chatham and Harwichport, MA, communities, which are more dependent upon groundfish revenues than other communities. The EA concludes that the self-governing nature of the Sector and the development of rules by the Sector enables stewardship of the cod resource by Sector members. The cumulative impacts of the Sector are expected to be positive due to a positive biological impact, positive impact on habitat, and a positive social and economic impact. In contrast, the cumulative impact of the no action alternative is estimated to be neutral, with negative social and economic impacts.

Should the Regional Administrator approve the Sector Agreement as proposed, a Letter of Authorization would be issued to each member of the Sector exempting them, conditional upon their compliance with the Sector Agreement, from the GB cod possession restrictions, the GB Seasonal Closure Area, the Western U.S./Canada Area 72–hr observer notification requirement, the DAS Leasing Program vessel size restrictions, differential DAS, and the limits on the number of hooks requirements as specified in §§ 648.86(b)(2), 648.81(g), 648.85(a)(3)(ii)(C), 648.82(k)(4)(ix), 648.82 (e)(2), 648.80(a)(4)(v), and 648.80(b)(2)(v), respectively.

Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared as required by section 603 of the Regulatory Flexibility Act (RFA). Below is a summary of the IRFA, which describes the economic impacts 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 to this proposed rule and in the EA prepared for this action. The Small Business Administration (SBA) size standard for small commercial fishing entities is $ 4 million in average annual receipts. All permitted and participating vessels in the groundfish fishery, including prospective Sector members, are considered to be small entities because average annual receipts by any one entity (vessel) do not exceed this threshold, and, therefore there is no disproportionate impact between large and small entities. The number of prospective participants in the Sector is 35, substantially less than the total number of active vessels in the groundfish fishery. Only these 35 vessels would be subject to the regulatory exemptions and operational restrictions proposed for the Sector for FY 2007.

Economic Impacts of the Proposed Action

The proposed alternative would allocate a GB cod TAC of 798 mt to the GB Cod Hook Sector. Once the GB cod TAC is harvested, participating vessels would not be allowed to fish under a DAS, possess or land GB cod, or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or party/charter regulations). Vessels intending to fish in the Sector during FY 2007 may not fish for NE multispecies under a NE Multispecies DAS during FY 2007 until the Sector Operations Plan is approved, and Sector vessels may only fish with jigs, non-automated demersel longline, or handgear. Under the proposed Operations Plan, members would be exempt from several restrictions of the FMP described in the preamble to this proposed rule and in the EA.

The proposed alternative would positively impact the members of the Sector (35 vessels or less) that have voluntarily joined the Sector, who are relatively dependent upon groundfish revenue compared to other participants in the groundfish fishery. The proposed Alternative would indirectly benefit the communities of Chatham and Harwichport (Massachusetts), and to a lesser extent other Cape Cod communities involved in the groundfish fishery. During FY 2005, members of the Sector landed 275,743 lb (125,054 kg) of cod and 1,114,401 lb (505,397 kg) of haddock, generating approximately $ 402,000, and $ 1,314,000 in revenue, respectively (assuming a dock-side price of $ 1.46 and $1.18 per lb, respectively). Sector members also landed various other species, which contributed slightly more to their revenue. In general, the operation of the Sector would continue to mitigate the negative economic impacts that result from the current suite of regulations that apply to the groundfish fishery (most recently Framework Adjustment 42)(October 23, 2006; 71 FR 62156). The Sector, by fishing under rules that are designed to meet their needs (as well as the conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which result in economic gains. For example, Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are able to maximize their efficiency (revenue per trip) due to the exemption from trip limits and hook numbers. For some vessel owners in the Sector,

participation in the Sector enables their businesses to remain economically viable.

Economic Impacts of Alternatives to the Proposed Action

Under the No Action alternative, all Sector members would remain in the common pool of vessels and fish under all the rules implemented by Amendment 13 and subsequent Framework Adjustments. Under the regulatory scenario of the No Action alternative, Sector members would likely face increased economic uncertainty, a loss of efficiency, and revenue loss. Because cod usually represents a high proportion of total fishing income for hook gear vessels, revenues for Sector members are sensitive to regulations that impact how and when they can fish for cod, such as trip limits and hook gear restrictions. Sector members would be unnecessarily impacted by regulations designed to affect the catch of species of which hook gear catches very little (e.g., yellowtail flounder, because hook gear is more selective than other gear types). For example, under the No Action alternative, Sector members would be affected by the differential DAS counting requirement, one of the objectives of which is to protect yellowtail flounder.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Action

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0202. Public reporting burden for the Submission of a Plan of Operation for an Approved Sector Allocation is estimated to average 50 hr per response, and for the Annual Reporting Requirements for Sectors is estimated to average 6 hr per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov*, or fax to (202) 395–7285. Nothwithstanding 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.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on proposed TAC allocations and plans of operation of sectors.

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

Dated: April 11, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 07–1883 Filed 4–12–07; 10:41 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060511126–7082–04; I.D. 050306E]

RIN 0648–AT71

Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Gulf of Alaska Fishery Resources

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule for the Central Gulf of Alaska (GOA) rockfish fisheries to revise monitoring and enforcement (M&E) provisions related to catcher/processor vessels harvesting under the opt-out fishery, and to make changes to regulations governing the rockfish fisheries. This action is necessary to clarify procedures and to correct discrepancies in a November 20, 2006, final rule. This proposed rule is intended to promote the goals and objectives of the Fishery Management Plan for groundfish of the Gulf of Alaska (FMP), the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable law.

DATES: Comments must be received by April 30, 2007.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by any of the following methods:

- Mail: to P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK 99802;
- Fax: (907) 586–7557;
- E-mail: *0648–AT71–GOA68PR@noaa.gov*. Include in the subject line of the email the following identifier: Rockfish Program correction 0648–AT71. E-mail comments, with or without attachments, are limited to five megabytes; or
- Webform at the Federal e-Rulemaking Portal: *http://www.regulations.gov*.

Copies of Amendment 68; the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 68; and Final Regulatory Flexibility Analysis (FRFA) prepared for Amendment 68 may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Jason Anderson, 907 586 7228 or jason.anderson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

In January 2004 the U.S. Congress amended section 313(j) of the Magnuson-Stevens Act through the Consolidated Appropriations Act of 2004 (Public Law 108 199, section 802). As amended, the Magnuson-Stevens Act authorizes the Secretary of Commerce to establish a limited access privilege program for the Central GOA rockfish fisheries (Program), developed in coordination with the North Pacific Fishery Management Council (Council). The Council recommended Amendment 68 to the FMP for groundfish in the GOA on June 6, 2005, to make the Program effective.

NMFS published a notice of availability for Amendment 68 on May 15, 2006 (71 FR 27984). On June 7, 2006, NMFS published a proposed rule to implement Amendment 68 and the Program (71 FR 33040). The Secretary approved Amendment 68 on August 11, 2006. NMFS published a final rule to implement Amendment 68 on November 20, 2006 (71 FR 67210).

The Program provides exclusive harvesting and processing privileges for a specific set of rockfish species and associated species harvested incidentally to those rockfish in the Central GOA an area between 147° W. longitude and 159° W. longitude. A detailed overview of the Program is

provided in the preamble to the proposed rule (71 FR 33040; June 7, 2006) and is not repeated here. However, a component of the Program allows holders of License Limitation Program licenses that are assigned rockfish quota share (QS) for the catcher/processor sector to opt-out of many of the aspects of the Program (opt-out fishery). Participants in the opt-out fishery are subject to harvest limitations, called sideboards, during the month of July. Sideboard limits applicable to participants in the opt-out fishery include measures to limit catch of specific groundfish species to historic levels, and limits on the amount of Pacific halibut bycatch, specifically termed prohibited species catch (PSC). NMFS requires a suite of M&E provisions for participants in the opt-out fishery to ensure they do not exceed their sideboards.

Need for Corrections

NMFS seeks to ensure that the November, 20, 2006, final rule (71 FR 67210) conforms to the intent of the Program, and to provide clarification regarding the Program's regulatory requirements.

Regulatory Intent Clarification

In the proposed rule to implement Amendment 68 (71 FR 33040; June 7, 2006), NMFS detailed the M&E provisions that would apply to participants in the opt-out fishery. The proposed suite of M&E provisions applicable to the opt-out fishery included requirements that each haul must be weighed separately, all catch must be made available for sampling by a NMFS-certified observer (see proposed regulatory text at § 679.84(c)(1); 71 FR 33096), and that the vessel has no more than one operational line or other conveyance for the mechanized movement of catch between the scale used to weigh total catch and the location where the observer collects species composition samples (see proposed regulatory text at § 679.84(c)(4); 71 FR 33096). The proposed rule would have required that all catcher/processor vessels in the opt-out fishery be subject to these M&E requirements during July. The effect of the full suite of these M&E requirements on the regulated industry and the environment was analyzed in the draft EA/RIR/IRFA prepared for the proposed rule to implement the Program.

In response to public comment received on the proposed rule, NMFS modified the M&E provisions that apply to the opt-out fishery. The modifications were detailed in the preamble to the final rule. Specifically, NMFS noted these changes in the summary of changes section to the preamble (71 FR 67213) and in its response to comment 90 (71 FR 67229). NMFS also analyzed the effect of the revised M&E provisions for the opt-out fishery in the final EA/RIR and FRFA prepared for the Program final rule (see **ADDRESSES**). The preamble to the final rule clearly indicated that NMFS intended to maintain the requirement for hauls to be weighed separately, and intended to require only one operational line.

The final regulatory text applicable to the opt-out fishery omitted some of the M&E requirements for catcher/processor vessels in the opt-out fishery that were detailed in the preamble to the final rule. Specifically, the regulations at § 679.84(d) failed to include the requirements to prevent mixing of hauls and maintain only one operational line before the point where the observer samples catch. These two requirements are essential for accurately attributing species composition to a specific haul and, in particular, to provide onboard observers the ability to properly attribute halibut PSC to a specific haul. Assigning halibut PSC to a specific haul is necessary to generate halibut PSC usage rates for specific fishery targets. Mixing of hauls and using more than one operational line undermines NMFS' ability to determine accurate halibut PSC usage for specific fisheries and creates the potential for improper halibut PSC accounting. Because the distribution of organisms by size and species often differs among hauls, an aggregation of hauls (i.e., mixing two or more hauls) could create errors in the calculation of total groundfish catch. For example, if a vessel were to mix hauls from two different areas or depths, species catch composition and size could be significantly different between these hauls, and a composite sample may not be representative of each individual haul. Any errors would be exacerbated as the composite sample is expanded to represent the total weight of the mixed hauls. Similarly, the use of more than one operational line could lead to improperly sampled catch because catch could be diverted or otherwise conveyed in a manner that would limit adequate sampling.

Improper accounting of halibut PSC increases the risk that NMFS' catch accounting system may underestimate the amount of halibut PSC in the opt-out fishery, which undermines the conservation goals of this program. Because halibut PSC sideboards are likely to be small relative to harvest rates, timely and accurate accounting is essential to properly constrain fishing operations and ensure adequate conservation of the halibut resource.

Additionally, halibut PSC sideboards are allocated to specific participants within the catcher/processor sector (i.e., halibut PSC sideboard limits are established for each catcher/processor rockfish cooperative, and a combined halibut PSC limit is established for the combined catcher/processor rockfish limited access and opt-out fisheries). Failure to properly account for halibut PSC in a timely fashion with the best available data could increase the possibility that the opt-out fishery exceeds its halibut PSC sideboard limit. This could adversely constrain other fishery participants with halibut PSC limits (e.g., participants in catcher/processor cooperatives).

Finally, certain catcher/processor operators that may choose to participate in the opt-out fishery may have an incentive to use techniques to intentionally bias halibut PSC rates if mixing of hauls and the use of more than one operational line is permitted. Recent enforcement actions document intentional presorting of catch to bias observed catch rates of halibut PSC to maximize groundfish catch relative to constraining PSC or other groundfish catch. However, NMFS expects that opportunities to bias observer samples in the opt-out fishery will be reduced with the changes established under this rule.

NMFS proposes to revise the regulatory text to include requirements to prevent the mixing of hauls and maintain only one operational line before the point where the observer samples catch. This action is necessary to be consistent with the intent of the final rule and provide the affected public with accurate information regarding these requirements.

Additional Changes

Regulations at § 679.80(f)(3)(iii)(F) include a grammatical error. This paragraph would be revised to correct the phrase, ''are the sum of all catch history'' to read, ''is the sum of all catch history.''

Regulations at § 679.82(d)(5)(iii) describe sideboard limits applicable to catcher vessels for the Program. This paragraph includes an erroneous cross-reference to ''§ 679.65(b)(1)(i)(B).'' This cross-reference would be corrected to read ''§ 679.64(b)(2)(ii).''

Regulations at § 679.82(d)(8)(ii)(B) include a misspelled word. This paragraph would be revised to correct the phrase, ''percent fo the GOA'' to read, ''percent of the GOA.''

Regulations at § 679.83(a)(1)(i) describe rockfish allocations for the

Program's entry level fishery. This paragraph includes an erroneous cross-reference to ''§ 679.81(ab)(2).'' This cross-reference would be corrected to read ''§ 679.81(a)(2).''

Classification

NMFS has determined that this proposed rule is consistent with the FMP and preliminarily determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act, for the regulations implementing the Program. The IRFA 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. Copies of the EA/RIR/IRFA prepared for the Program are available from NMFS (see ADDRESSES). A summary of that analysis follows.

Why action by the agency is being considered and objectives of, and legal basis for, the proposed rule. The IRFA prepared for the Program describes in detail the reasons why this action is being proposed, describes the objectives and legal basis for the proposed rule, and discusses both small and non-small regulated entities to adequately characterize the fishery participants. Section 802 of the Consolidated Appropriations Act of 2004 and the Magnuson-Stevens Act provide the legal basis for the Program, namely to achieve the objective of reducing excessive fishing capacity and ending the race for fish under the current management strategy for commercial fishing vessels operating in the Central GOA rockfish fisheries. NMFS proposes to revise the regulatory text to include requirements to prevent the mixing of hauls and maintain only one operational line before the point where the observer samples catch. This action is necessary to be consistent with the intent of the Program and provide the affected public with accurate information regarding these requirements.

Description of significant alternatives. The Council considered an extensive and elaborate series of alternatives, options, and suboptions as it designed and evaluated the potential for rationalization of the Central GOA rockfish fisheries, including the ''no action'' alternative. Three alternatives for catcher vessels were considered: Status Quo/No Action (Alternative 1); rockfish cooperative management with a limited license program for processors (Alternative 2); and rockfish cooperative management with linkages between rockfish cooperatives and processors (Alternative 3). Three alternatives for catcher/processors also were considered: Status Quo/No Action (Alternative 1); rockfish cooperative management (Alternative 2); and a sector allocation (Alternative 3). Alternative 3 for catcher vessels and Alternative 2 for catcher/processors were combined to form the Council's preferred alternative the rockfish cooperative alternative. The alternatives were analyzed relative to the status quo. Because the regulatory effect for opt-out sideboard fisheries will not occur until July, 1 2007, the status quo has not changed. Therefore, the effects of these alternatives described in the Program IRFA have not changed relative to this action. These alternatives constitute the suite of ''significant alternatives,'' under the proposed action, for purposes of the Regulatory Flexibility Act (RFA).

After an exhaustive public process spanning several years, the Council concluded that the Program best accomplishes the stated objectives articulated in the problem statement and applicable statutes, and minimizes to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

Number of small entities to which the proposed rule will apply. The IRFA prepared for the Program contains a description and estimate of the number of small entities to which the proposed rule would apply. The IRFA estimates that as many as 15 catcher/processor vessels are eligible to receive QS under the Program. The IRFA estimates that approximately 171 trawl vessels and 900 non-trawl vessels could participate in the entry level fishery. The number of vessels that would choose to participate in the entry level fishery component of the Program is not known; therefore, there is no estimate of the number of entities in the entry level fishery that are directly regulated under this Program.

In addition, six entities that process rockfish are estimated to be eligible rockfish processors and would be regulated under this Program. None of these eligible rockfish processors are estimated to be small entities based on the number of persons employed by these processors. Additionally, some of these eligible rockfish processors are estimated to be involved in both the harvesting and processing of seafood products and exceed the $4.0 million in revenues as a fish harvesting operation. Some processors that are not eligible rockfish processors may choose to compete for landings from the entry level fishery and would be regulated by this Program. Some of these processors may be small entities. The extent of participation by small entities in the processing segment of the entry level fishery cannot be predicted.

Of the estimated 63 entities owning vessels eligible for fishing under the Program (other than the entry-level fishery), 45 are estimated to be small entities because they generated $4.0 million or less in gross revenue based on participation in 1996 through 2002. All 15 of the entities owning eligible catcher/processor vessels are non-small entities as defined by the RFA. No catcher vessel individually exceeds the small entity threshold of $4.0 million in gross revenues. At least three catcher vessels are believed to be owned by entities whose operations exceed the small entity threshold, leaving an estimated many as 45 small catcher vessel entities that are directly regulated by this action. The ability to estimate the number of small entities that operate catcher vessels regulated by this action is limited due to incomplete information concerning vessel ownership.

It is likely that a substantial portion of the catcher vessel participants in the entry level fishery will be small entities. Based on data from NOAA Fisheries, there are approximately 171 LLP licenses that would be qualified to fish in the Central GOA entry level trawl fishery, and 900 LLP licenses that would qualify to fish in the entry level fixed gear fishery. However, it is not possible to determine how many persons may hold these LLP licenses and chose to participate in the entry level fishery at the time of application to participate in the fishery. The number of persons holding LLPs is likely to be less than the total number of LLP licenses that may be used to participate in the entry level fishery because a person may hold more than one LLP license at a time.

Six entities made at least one rockfish landing from 1996 to 2002, but none appeared to qualify as an eligible rockfish harvester. Five of these entities are not small entities and one entity qualifies as ''small'' by Small Business Administration (SBA) standards. The non-small entities owned five catcher/processors. The one small entity owns a catcher vessel. Entities that do not qualify for the Program either left the fishery, currently fish under interim LLP licenses, or do not hold an LLP license. Moreover, the vessels the IRFA prepared for the Program considers ''non-qualified'' could not or would not be allowed to continue fishing under the

current LLP. The impacts to the small entities that would be prohibited from fishing by the LLP were analyzed in the RIR/IRFA and Final Regulatory Flexibility Analysis (FRFA) prepared for the LLP. Therefore, the non-qualified vessels are not considered impacted by the proposed rule and are not discussed in this IRFA.

For purposes of the RIR prepared for the Program, the community of Kodiak, Alaska, could be directly impacted by the Program. All of the eligible rockfish processors are located in Kodiak. The specific impacts on Kodiak cannot be determined until NMFS issues QS and eligible rockfish harvesters begin fishing under the Program. Other supporting businesses may also be indirectly affected by this action if it leads to fewer vessels participating in the fishery. These impacts are analyzed in the RIR prepared for this action (see **ADDRESSES**).

Projected reporting, recordkeeping and other compliance requirements. Implementation of the Program would change the overall reporting structure and recordkeeping requirements of the participants in the Central GOA rockfish fisheries. All participants would be required to provide additional reporting. Each harvester would be required to track harvests to avoid exceeding his or her allocation. As in other North Pacific rationalized fisheries, processors would provide catch recording data to managers to monitor harvest of allocations. Processors would be required to record deliveries and processing activities to aid in the Program administration. The specifics of changes to reporting and recordkeeping requirements can be found in the preamble to the Program proposed rule (71 FR 33040, June 2, 2006).

Federal rules which may duplicate, overlap or conflict with the proposed rule. No Federal rules that may duplicate, overlap, or conflict with this proposed action have been identified.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 11, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For reasons stated in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108–199, 118 Stat. 110.

2. In § 679.80, revise paragraph (f)(3)(iii)(F) to read as follows:

§ 679.80 Initial allocation of rockfish QS.

* * * * *

(f) * * *

(3) * * *

(iii) * * *

(F) Determine the percentage of legal rockfish landings from the official Rockfish Program record in the qualifying years used to calculate the rockfish QS assigned to the catcher/processor sector and multiply the rockfish QS units calculated in paragraph (f)(3)(iii)(E) of this section by this percentage. This yields the rockfish QS units to be assigned to the catcher/processor sector for that LLP license and species. For each primary rockfish species, the total amount of rockfish QS units assigned to the catcher/processor sector is the sum of all catch history allocation units assigned to all eligible rockfish harvesters in the catcher/processor sector.

* * * * *

3. In § 679.82, revise paragraphs (d)(5)(iii) and (d)(8)(ii)(B) to read as follows:

§ 679.82 Rockfish Program use caps and sideboard limits.

* * * * *

(d) * * *

(5) * * *

(iii) Any AFA vessel that is not exempt from GOA groundfish sideboards under the AFA as specified under § 679.64(b)(2)(ii) is exempt from the sideboard limits in this paragraph (d).

* * * * *

(8) * * *

(ii) * * *

(B) The aggregate halibut PSC used in the shallow-water complex from July 1 through July 31 in each year from 1996 through 2002 by LLP licenses assigned to that rockfish cooperative that are subject to directed fishing closures under this paragraph (d), divided by 0.54 percent of the GOA annual halibut mortality limit.

* * * * *

4. In § 679.83, revise paragraph (a)(1)(i) to read as follows:

§ 679.83 Rockfish Program entry level fishery.

(a) * * *

(1) * * *

(i) *Trawl catcher vessels.* Trawl catcher vessels participating in the rockfish entry level fishery may collectively harvest, prior to September 1, an amount not greater than 50 percent of the total allocation to the rockfish entry level fishery as calculated under § 679.81(a)(2). Allocations to trawl catcher vessels shall be made first from the allocation of Pacific ocean perch available to the rockfish entry level fishery. If the amount of Pacific ocean perch available for allocation is less than the total allocation allowable for trawl catcher vessels in the rockfish entry level fishery, then northern rockfish and pelagic shelf rockfish shall be allocated to trawl catcher vessels.

* * * * *

5. In § 679.84, revise paragraph (d) to read as follows:

§ 679.84 Rockfish Program recordkeeping, permits, monitoring, and catch accounting.

* * * * *

(d) *Catch monitoring requirements for catcher/processors assigned to the opt-out fishery.* At all times any catcher/processor vessel assigned to the opt-out fishery has groundfish onboard that vessel that were harvested subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, the vessel owner or operator must ensure catch from an individual haul is not mixed with catch from another haul prior to sampling by a NMFS-certified observer, that all catch be made available for sampling by a NMFS-certified observer, and that the requirements in paragraphs (c)(3), (4), (5), (8), and (9) of this section are met.

* * * * *

[FR Doc. E7–7193 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 72
Monday, April 16, 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

Submission for OMB Review; Comment Request

April 11, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: 7 CFR 1941, Operating Loan Policies, Procedures and Authorizations and Closings.

OMB Control Number: 0560–0162.

Summary of Collection: The Consolidated Farm and Rural Development Act (7 U.S.C 1922) (CONACT) authorizes the Secretary of Agriculture and Farm Service Agency (FSA) to make and insure loans to farmers and ranchers and to administer the provisions of the CONACT applicable to the Farm Loan Program. The information is required to ensure that the agency provides assistance to applicants who have reasonable prospects of repaying the government and meet statutory eligibility requirements. This assistance enables family farm operators to use their land, labor, and other resources and to improve their living and financial conditions so that they can eventually obtain credit elsewhere.

Need and Use of the Information: The information is needed for FSA loan approval officials to evaluate an applicant's eligibility, and to determine if the operation is economically feasible and the security offered in support of the loan is adequate. FSA relies on current information to carry out the business of the program as intended and to protect the government's interest. A variety of forms will be used to collect the information. If the information were not collected, or collected less frequently, the Agency would be: (1) Unable to make an accurate eligibility and financial feasibility determination on respondents' request for new loans as required by the CONACT; and (2) unable to meet the congressionally mandated mission of loan programs.

Description of Respondents: Farms: Business or other for-profit; Individuals or households.

Number of Respondents: 26,146.

Frequency of Responses: Reporting: Other (OL Loans).

Total Burden Hours: 7,019.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–7181 Filed 4–13–07; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Notice, Comment, and Appeal Procedures on Proposed Actions and Legal Notice of the Objection Process for Proposed Authorized Hazardous Fuel Reduction Projects in the Pacific Northwest Region; Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice updates the list of newspapers that will be used by all Ranger Districts, Forests and the Regional Office of the Pacific Northwest Region to publish legal notices for public comment and decisions subject to appeal under 36 CFR parts 215 and 217, and predecisional administrative review under 36 CFR part 218. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for decisions and public comment; thereby allowing the public to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering appeals and objection processes.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after publication of this notice. The list of newspapers will remain in effect until another notice is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Jill A. Dufour, Regional Environmental Coordinator, Pacific Northwest Region, 333 SW. First Avenue, (P.O. Box 3623), Portland, Oregon 97208, phone: 503–808–2276.

The newspapers to be used are as follows:

Pacific Northwest Regional Office

Regional Forester decisions on Oregon National Forests
The Oregonian, Portland, Oregon
Regional Forester decisions on Washington National Forests
The Seattle Post-Intelligencer, Seattle, Washington
Columbia River Gorge National Scenic Area Manager decisions
The Oregonian, Portland, Oregon

Oregon National Forests

Deschutes National Forest

Forest Supervisor decisions
Bend/Fort Rock District Ranger decisions
Crescent District Ranger decisions
Redmond Air Center Manager decisions
Sisters District Ranger decisions
The Bulletin, Bend, Oregon

Fremont-Winema National Forests

Forest Supervisor decisions
Bly District Ranger decisions
Lakeview District Ranger decisions
Paisley District Ranger decisions
Silver Lake District Ranger decisions
Chemult District Ranger decisions
Chiloquin District Ranger decisions
Klamath District Ranger decisions
Herald and News, Klamath Falls, Oregon

Malheur National Forest

Forest Supervisor decisions
Blue Mountain District Ranger decisions
Prairie City District Ranger decisions
Blue Mountain Eagle, John Day, Oregon
Emigrant Creek District Ranger decisions
Burns Times Herald, Burns, Oregon

Mt. Hood National Forest

Forest Supervisor decisions
Clackamas River District Ranger decisions
Zigzag District Ranger decisions
Hood River District Ranger decisions
Barlow District Ranger decisions
The Oregonian, Portland, Oregon

Ochoco National Forest

Forest Supervisor decisions
Crooked River National Grassland Area Manager decisions
Lookout Mountain District Ranger decisions
Paulina District Ranger decisions
The Bulletin, Blend, Oregon

Rogue River-Siskiyou National Forests

Forest Supervisor decisions
High Cascades District Ranger decisions
J. Herbert Stone Nursery Manager decisions
Siskiyou Mountains District Ranger decisions
Mail Tribune, Medford, Oregon
Wild Rivers District Ranger decisions
Grants Pass Daily Courier, Grants Pass, Oregon
Gold Beach District Ranger decisions
Curry County Reporter, Gold Beach, Oregon
Powers District Ranger decisions
The World, Coos Bay, Oregon

Siuslaw National Forest

Forest Supervisor decisions
Corvallis Gazette-Times, Corvallis, Oregon
Central Coast Ranger District—Oregon Dunes National Recreation Area District Ranger decisions
The Register-Guard, Eugene, Oregon
Hebo District Ranger decisions
Tillamook Headlight Herald, Tillamook, Oregon

Umatilla National Forest

Forest Supervisor decisions
North Fork John Day District Ranger decisions
Heppner District Ranger decisions
Pomeroy District Ranger decisions
Walla Walla District Ranger decisions
East Oregonian, Pendleton, Oregon

Umpqua National Forest

Forest Supervisor decisions
Cottage Grove District Ranger decisions
Diamond Lake District Ranger decisions
North Umpqua District Ranger decisions
Tiller District Ranger decisions
Dorena Genetic Resource Center Manager decisions
The News-Review, Roseburg, Oregon

Wallowa-Whitman National Forest

Forest Supervisor decisions
Whitman District Ranger decisions
Baker City Herald, Baker City, Oregon
La Grande District Ranger decisions
The Observer, La Grande, Oregon
Hells Canyon National Recreation Area Manager decisions
Eagle Cap District Ranger decisions
Wallowa Valley District Ranger decisions
Wallowa County Chieftain, Enterprise, Oregon

Willamette National Forest

Forest Supervisor decisions
Middle Fork District Ranger decisions
McKenzie River District Ranger decisions
Sweet Home District Ranger decisions
The Register-Guard, Eugene, Oregon
Detroit District Ranger decisions
Statesman Journal, Salem, OR

Washington National Forests

Colville National Forest

Forest Supervisor decisions
Three Rivers District Ranger decisions
Statesman-Examiner, Colville, Washington
Sullivan Lake District Ranger decisions
Newport District Ranger decisions
The Newport Miner, Newport, Washington
Republic District Ranger decisions
Republic News Miner, Republic, Washington

Gifford Pinchot National Forest

Forest Supervisor decisions
Mount Adams District Ranger decisions
Mount St. Helens National Volcanic Monument Manager decisions
The Columbian, Vancouver, Washington
Cowlitz Valley District Ranger decisions
The Chronicle, Chehalis, Washington

Mt. Baker-Snoqualmie National Forest
Forest Supervisor decisions
Seattle-Post Intelligencer, Seattle, Washington
Darrington District Ranger decisions
Skykomish District Ranger decisions
Everett Herald, Everett, Washington
Mt. Baker District Ranger decisions
Skagit Valley Herald, Mt. Vernon, Washington
Snoqualmie District Ranger decisions (north half of district)
Snoqualmie Valley Record, North Bend, Washington
Snoqualmie District Ranger decisions (south half of district)
Enumclaw Courier Herald, Enumclaw, Washington

Okanogan-Wenatchee National Forests
Forest Supervisor decisions
Chelan District Ranger decisions
Entiat District Ranger decisions
Tonasket District Ranger decisions
Naches District Ranger decisions
Wenatchee River District Ranger decisions
The Wenatchee World, Wenatchee, Washington
Methow Valley District Ranger decisions
Methow Valley News, Twisp, Washington
Cle Elum District Ranger decisions
Ellensburg Daily Record, Ellensburg, Washington

Olympic National Forest
Forest Supervisor decisions
The Olympian, Olympia, Washington
Hood Canal District Ranger decisions
Peninsula Daily News, Port Angeles, Washington
Pacific District Ranger decisions (south portion of district)
The Daily World, Aberdeen, Washington
Pacific District Ranger decisions (north portion of district)
Peninsula Daily News, Port Angeles, Washington

Dated: March 28, 2007.

Linda Goodman,

Regional Forester.

[FR Doc. 07–1858 Filed 4–13–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Announcement of Value-Added Producer Grant Application Deadlines

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of solicitation of applications.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of approximately $19.3 million in competitive grant funds for fiscal year (FY) 2007 to help independent agricultural producers enter into value-added activities.

Awards may be made for planning activities or for working capital expenses, but not for both. The maximum grant amount for a planning grant is $100,000 and the maximum grant amount for a working capital grant is $300,000.

DATES: Applications for grants must be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than May 16, 2007, to be eligible for FY 2007 grant funding. Late applications are not eligible for FY 2007 grant funding.

Electronic copies must be received by May 16, 2007 to be eligible for FY 2007 grant funding. Late applications are not eligible for FY 2007 grant funding.

ADDRESSES: An application guide and other materials may be obtained at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm* or by contacting the applicant's USDA Rural Development State Office. The State Office can be reached by calling (202) 720–4323 and pressing ''1''.

Paper applications must be submitted to: Cooperative Programs, Attn: VAPG Program, Mail Stop 3250, Room 4016–South, 1400 Independence Ave., SW., Washington, DC 20250–3250. The phone number that should be used for courier delivery is (202) 720–7558.

Electronic applications must be submitted through the Grants.gov Web site at: *http://www.grants.gov*, following the instructions found on this Web site.

FOR FURTHER INFORMATION CONTACT: Applicants should visit the program Web site at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm*, which contains application guidance, including Frequently Asked Questions and an Application Guide. Or applicants may contact their USDA Rural Development State Office. The State Office can be reached by calling (202) 720–4323 and pressing ''1'', or by selecting the State Contacts link at the above Web site.

Applicants are encouraged to contact their State Offices well in advance of the deadline to discuss their projects and ask any questions about the application process. Also, applicants may submit drafts of their applications to their State Offices for a preliminary review anytime prior to May 7, 2007. The preliminary review will only assess the eligibility of the application and its completeness and the results of the preliminary review are not binding on the Agency.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: USDA Rural Development Cooperative Programs.

Funding Opportunity Title: Value-Added Producer Grants.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number: 10.352.

Dates: Application Deadline: Applications for grants must be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than May 16, 2007 to be eligible for FY 2007 grant funding. Late applications are not eligible for FY 2007 grant funding.

Electronic copies must be received by May 16, 2007 to be eligible for FY 2007 grant funding. Late applications are not eligible for FY 2007 grant funding.

I. Funding Opportunity Description

This solicitation is issued pursuant to section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106–224) as amended by section 6401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171 (see 7 U.S.C. 1621 note)) authorizing the establishment of the Value-Added Agricultural Product Market Development grants, also known as Value-Added Producer Grants. The Secretary of Agriculture has delegated the program's administration to USDA Rural Development Cooperative Programs.

The primary objective of this grant program is to help Independent Producers of Agricultural Commodities, Agriculture Producer Groups, Farmer and Rancher Cooperatives, and Majority-Controlled Producer-Based Business Ventures develop strategies to create marketing opportunities and to help develop Business Plans for viable marketing opportunities regarding production of biobased products from agricultural commodities. Cooperative Programs will competitively award funds for Planning Grants and Working Capital Grants. In order to provide program benefits to as many eligible applicants as possible, applicants must apply only for a Planning Grant or for a Working Capital Grant, but not both. Applicants other than Independent Producers must limit their Projects to Emerging Markets. Grants will only be awarded if Projects are determined to be economically viable and sustainable. No more than 10 percent of program funds can go to applicants that are Majority-Controlled Producer-Based Business Ventures.

Definitions

The definitions at 7 CFR 4284.3 and 4284.904 are incorporated by reference. In addition, the Agency uses the following terms in this NOSA: Agricultural Commodity, Bioenergy Project, Biomass, Business Plan, Conflict of Farm or Ranch, Feasibility Study, Project, Renewable Energy, and Venture. It is the Agency's position that those terms are defined as follows.

Agricultural Commodity—An unprocessed product of farms, ranches, nurseries, and forests. Agricultural Commodities include: Livestock, poultry, and fish; fruits and vegetables; grains, such as wheat, barley, oats, rye, triticale, rice, corn, and sorghum; legumes, such as field beans and peas; animal feed and forage crops; seed crops; fiber crops, such as cotton; oil crops, such as safflower, sunflower, corn, and cottonseed; trees grown for lumber and wood products; nursery stock grown commercially; Christmas trees; ornamentals and cut flowers; and turf grown commercially for sod. Agricultural Commodities do not include horses or animals raised as pets, such as cats, dogs, and ferrets.

Bioenergy Project—A Renewable Energy system that produces fuel, thermal energy, or electric power from a Biomass source.

Biomass—Any organic material that is available on a renewable or recurring basis, including agricultural crops; trees grown for energy production; wood waste and wood residues; plants, including aquatic plants and grasses; fibers; animal waste and other waste materials; and fats, oils, and greases, including recycled fats, oils, and greases. It does not include paper that is commonly recycled or un-segregated solid waste.

Business Plan—A plan for Venture implementation that includes key management personnel, business location, the financial package, product flow, and possible customers. It also includes at least three years of pro forma financial statements. The plan is usually

developed by the business with assistance from third parties.

Conflict of Interest—A situation in which a person or entity has competing professional or personal interests that make it difficult for the person or business to act impartially. An example of a Conflict of Interest is a grant recipient or an employee of a recipient that conducts or significantly participates in conducting a Feasibility Study for the recipient.

Farm or Ranch—Any place from which $1,000 or more of agricultural products (crops and livestock) were raised and sold or normally would have been raised and sold during the previous year.

Feasibility Study—An independent, third party analysis that shows how the Venture would operate under a set of assumptions—the technology used (the facilities, equipment, production process, etc.), the qualifications of the management team, and the financial aspects (capital needs, volume, cost of goods, wages, etc.). The analysis should answer the following questions about the Venture.

(1) Where is it now?

(2) Where does the group want to go?

(3) Why does the group want to go forward with the Venture?

(4) How will the group accomplish the Venture?

(5) What resources are needed?

(6) Who will provide assistance?

(7) When will the Venture be completed?

(8) How much will the Venture cost?

(9) What are the risks?

Project—Includes all proposed activities to be funded by the VAPG and Matching Funds.

Renewable Energy—Energy derived from a wind, solar, biomass, or geothermal source; or hydrogen derived from biomass or water using wind, solar, biomass, or geothermal energy sources.

Venture—Includes the Project and any other activities related to the production, processing, and marketing of the Value-Added product that is the subject of the VAPG grant request.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: FY 2007.

Approximate Total Funding: $19.475 million.

Approximate Number of Awards: 130.

Approximate Average Award: $150,000.

Floor of Award Range: None.

Ceiling of Award Range: $100,000 for Planning Grants and $300,000 for Working Capital Grants.

Anticipated Award Date: September 1, 2007.

Budget Period Length: 12 months.

Project Period Length: 12 months.

III. Eligibility Information

A. Eligible Applicants

Applicants must be an Independent Producer, Agriculture Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture as defined in 7 CFR part 4284, subpart A. If the applicant is an unincorporated group (steering committee), it must form a legal entity before the grant funds can be obligated. Please note that a steering committee may only apply as an Independent Producer. Therefore, the steering committee must be composed of 100 percent Independent Producers and the business to be formed must meet the definition of Independent Producer. Also, entities that contract out the production of an Agricultural Commodity are not considered Independent Producers. In addition, note that Farmer or Rancher Cooperatives that are 100 percent owned by farmers and ranchers are not considered under the Independent Producer category; these applicants must apply as Farmer or Rancher Cooperatives. It is the Agency's position that if a cooperative is 100 percent owned and controlled by agricultural harvesters (*e.g.* fishermen, loggers), it is eligible only as an Independent Producer and not as a Farmer- or Rancher-Cooperative. If a cooperative is not 100 percent owned and controlled by farmers and ranchers or 100 percent owned and controlled by agricultural harvesters, it may still be eligible to apply as a Majority-Controlled Producer-Based Business Venture, provided it meets the definition in 7 CFR part 4284, subpart A.

B. Cost Sharing or Matching

Matching Funds are required. Applicants must verify in their applications that Matching Funds are available for the time period of the grant. Matching Funds must be at least equal to the amount of grant funds requested. Unless provided by other authorizing legislation, other Federal grant funds cannot be used as Matching Funds. Matching Funds must be spent at a rate equal to or greater than the rate at which grant funds are expended. Matching Funds must be provided by either the applicant or by a third party in the form of cash or in-kind contributions. Matching Funds must be spent on eligible expenses and must be from eligible sources.

C. Other Eligibility Requirements

Product Eligibility: The project proposed must involve a Value-Added product as defined in 7 CFR part 4284, subpart A. The definition of Value-Added includes four categories. They are the incremental value that is realized by the producer from an Agricultural Commodity or product as the result of:

(1) A change in its physical state,

(2) Differentiated production or marketing, as demonstrated in a Business Plan, or

(3) Product segregation.

The fourth category is the economic benefit realized from the production of Farm- or Ranch-based Renewable Energy.

Purpose Eligibility: The application must specify whether grant funds are requested for planning activities or for working capital. Applicants may not request funds for both types of activities in one application. Applications requesting more than the maximum grant amount will be considered ineligible. Please note that working capital expenses are not considered eligible for Planning Grants and planning expenses are not considered eligible for Working Capital Grants.

It is the Agency's position that applicants other than Independent Producers applying for a Working Capital Grant must demonstrate that the venture has not been in operation more than two years at the time of application in order to show that they are entering an Emerging Market.

Grant Period Eligibility: Applications that have a timeframe of more than 365 days will be considered ineligible. Applications that request funds for a time period beginning prior to October 1, 2007 and/or ending after November 30, 2008, will be considered ineligible.

Multiple Grant Eligibility: An applicant can only submit one application per funding cycle.

Applicants who have already received a Planning Grant for the proposed Project cannot receive another Planning Grant for the same Project. Applicants who have already received a Working Capital Grant for a Project cannot receive any additional grants for that Project.

Current Grant Eligibility: If an applicant currently has a VAPG, that grant period must be scheduled to expire by December 31, 2007.

Judgment Eligibility: In accordance with 7 CFR part 4284.6.

IV. Application and Submission Information

A. Address To Request Application Package

The application package for applying on paper for this funding opportunity can be obtained at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm*. Alternatively, applicants may contact their USDA Rural Development State Office. The State Office can be reached by calling (202) 720–4323 and pressing ''1''. For electronic applications, applicants must visit *http://www.grants.gov* and follow the instructions.

B. Content and Form of Submission

Applications must be submitted on paper or electronically. An Application Guide may be viewed at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm*. It is recommended that applicants use the template provided on the Web site. The template can be filled out electronically and printed out for submission with the required forms for a paper submission or it can be filled out electronically and submitted as an attachment through Grants.gov.

If an application is submitted on paper, one signed original of the complete application must be submitted.

If the application is submitted electronically, the applicant must follow the instructions given at *http://www.grants.gov*. Applicants are advised to visit the site well in advance of the application deadline if they plan to apply electronically to insure that they have obtained the proper authentication and have sufficient computer resources to complete the application.

Applicants must complete and submit the following elements. Please note that the requirements in the following locations within 7 CFR part 4284 have been combined with other requirements to simplify the application and reduce duplication: § 4284.910(b)(5)(i), § 4284.910(b)(5)(ii), and § 4284.910(b)(5)(iv). The Agency will conduct an initial screening of all application for eligibility and to determine whether the application is complete and sufficiently responsive to the requirements set forth in this Notice to allow for an informed review. Information submitted as part of the application will be protected to the extent permitted by law.

1. Form SF–424, ''Application for Federal Assistance.'' The form must be completed, signed and submitted as part of the application package. Please note that applicants are required to have an Employer Identification Number (or a Social Security Number if the applicant is an individual or steering committee) and a DUNS number (unless the applicant is an individual). The DUNS number is a nine-digit identification number, which uniquely identifies business entities. To obtain a DUNS number, access *http://www.dnb.com/us,* or call (866) 705–5711. Additional information on the VAPG program can be obtained at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm* or by contacting the applicant's Rural Development State Office. The State Office can be reached by calling (202) 720–4323 and pressing ''1''.

2. Form SF–424A, ''Budget Information—Non-Construction Programs.'' This form must be completed and submitted as part of the application package.

3. Form SF–424B, ''Assurances—Non-Construction Programs.'' This form must be completed, signed, and submitted as part of the application package.

4. Title Page (limited to one page). The title page must include the title of the project and may include other relevant identifying information.

5. Table of Contents. For ease of locating information, each application must contain a detailed Table of Contents (TOC) immediately following the title page.

6. Executive Summary (limited to one page). The Executive Summary should briefly describe the Project, including goals, tasks to be completed and other relevant information that provides a general overview of the Project. In this element, the applicant must clearly state whether the application is for a Planning Grant or a Working Capital Grant and the grant amount requested.

7. Eligibility Discussion (limited to four pages). The Eligibility Discussion is a detailed discussion describing how the eligibility requirements are met.

i. Applicant Eligibility. The applicant must first describe how it meets the definition of an Independent Producer, Agriculture Producer Group, Farmer or Rancher Cooperative, or a Majority-Controlled Producer-Based Business Venture as defined in 7 CFR 4284.3. The applicant must apply as only one type of applicant.

If the applicant is an Independent Producer, the application must provide the following information: (1) A discussion of how 100 percent of the owners of the applicant organization meet the definition of an Independent Producer; (2) a discussion that demonstrates these owners currently own and produce more than 50 percent of the raw commodity that will be used for the Value-Added product; and (3) a discussion that demonstrates the product will be owned by the Independent Producers from its raw commodity state through the production of the Value-Added product during the Project.

If the applicant is an Agriculture Producer Group, the application must provide the following information: (1) The mission of the applicant; (2) a statement identifying the number of the applicant's membership and board of directors that meet the definition of Independent Producer as well as the number of non-Independent Producers; (3) an identification (either by name or by class) of the Independent Producers on whose behalf the work will be done; (4) a discussion demonstrating that these Independent Producers currently own and produce more than 50 percent of the raw commodity that will be used for the Value-Added product; and (5) a discussion demonstrating that the Value-Added product will be owned by the Independent Producers from its raw commodity state through the production of the Value-Added product during the Project. Note that applicants tentatively selected for a grant award must verify that the work will be done on behalf of the Independent Producers identified in the application.

If the applicant is a Farmer or Rancher Cooperative, the application must provide the following information: (1) The applicant must reference the business' good standing as a cooperative in its state of incorporation; (2) the applicant must also explain how the cooperative is 100 percent owned and controlled by farmers and ranchers; (3) if the applicant is applying on behalf of only a portion of its membership, that portion must be identified, and the applicant must explain how all members in this portion of its membership meet the definition of an Independent Producer; (4) a discussion demonstrating that these Independent Producers currently own and produce more than 50 percent of the raw commodity that will be used for the Value-Added product; and (5) a discussion demonstrating that the Value-Added product will be owned by the Independent Producers from its raw commodity state through the production of the Value-Added product during the Project.

If the applicant is a Majority-Controlled Producer-Based Business Venture, the application must provide the following information: (1) The number of owners who are Independent Producers and the number of owners who are not Independent Producers; (2) the financial interest of Independent Producers and non-Independent

Producers in the applicant organization; (3) the voting interest of Independent Producers and non-Independent Producers on the governing board; (4) a discussion demonstrating that these Independent Producers currently own and produce more than 50 percent of the raw commodity that will be used for the Value-Added product; and (5) a discussion demonstrating that the Value-Added product will be owned by the Independent Producers from its raw commodity state through the production of the Value-Added product during the Project.

ii. Product Eligibility. The applicant must next describe how the Value-Added product to be produced meets at least one of the categories in the definition of Value-Added as defined in 7 CFR part 4284, subpart A. Regardless of which category is met, the applicant must describe the raw commodity that will be used, the process used to add value, and the Value-Added product that will be marketed.

If the product meets the first category (incremental value realized as a result of a change in the physical state of the commodity), the application must explain how the change in physical state or form of the product enhances its value. A change in physical state is only achieved if the product cannot be returned to its original state. Examples of this type of product include: fish fillets, diced tomatoes, ethanol, bio-diesel, and wool rugs. The following examples are not eligible under this category: dehydrated corn, raw fiber, and cut flowers.

If the product meets the second category (incremental value realized as a result of differentiated production or marketing), the application must explain how the production or marketing of the commodity enhances the Value-Added product's value. The enhancement of value must be quantified by using a comparison with products produced or marketed in the standard manner, using information from the Feasibility Study and Business Plan developed for the Venture. Examples of this type of product include: organic carrots, identity-preserved apples, and branded milk. The following example is not eligible under this category: marketing a non-standard variety of produce. Also, a Business Plan that has been developed for the applicant for the Venture must be referenced by indicating who developed the Business Plan and when it was completed.

If the product meets the third category (incremental value realized as a result of product segregation), the application must explain how the physical segregation of a commodity enhances its value. The enhancement of value should be quantified to the extent possible by using a comparison with products marketed without segregation. Applicants must demonstrate that a physical barrier (i.e. distance or a structure) separates the commodity from other varieties of the same commodity during production, that the commodity will continue to be separated during processing, and that the Value-Added product produced will be separated from similar products during marketing. An example of this type of product is non-genetically-modified corn that is produced on the same Farm as genetically-modified corn where an increase in incremental value is realized for either one or both of the types of corn that is attributed to physical segregation. The following examples are not eligible under this category: livestock sorted by grade, produce sorted by size or grade.

If the product meets the fourth category (economic benefit realized by Farm-or Ranch-based production of Renewable Energy), the application must explain how the Renewable Energy will be generated on a Farm or a Ranch owned or leased by the owners of the Venture. Please note that the owners/leasers of the Farm or Ranch must currently produce an Agricultural Commodity on the Farm or Ranch and the Farm or Ranch must meet the definition of a Farm or a Ranch as defined in the ''Definitions'' section of this notice. Examples of this type of product are wind energy, solar energy, and anaerobic digesters. The following examples are not eligible under this category: any type of fuel, such as ethanol, bio-diesel, and switchgrass pellets, that is not generated on a Farm or Ranch owned or leased by the owners of the Venture.

iii. Purpose Eligibility. The applicant must describe how the Project purpose is eligible for funding. The project purpose is comprised of two components. First, the applicant must describe how the proposed Project consists of eligible planning activities or eligible working capital activities.

Second, the applicant must demonstrate that the activities are directly related to the processing and/or marketing of a Value-Added product. If the applicant is applying for a Working Capital Grant, it must reference a third-party, independent Feasibility Study and a Business Plan that have been completed specifically for the proposed Venture. The reference must include the name of the party who conducted the Feasibility Study and developed the Business Plan as well as the dates the Feasibility Study and Business Plan were completed.

If the applicant is applying for a Working Capital Grant, and it is an Agriculture Producer Group, a Farmer or Rancher Cooperative, or a Majority-Controlled Producer-Based Business Venture, it must also demonstrate that its proposed Venture has been in operation for less than two years at the time of application, in order to show that the applicant is entering an Emerging Market.

8. Proposal Narrative (limited to 35 pages).

i. Goals of the Project. The application must include a clear statement of the ultimate goals of the Project. There must be an explanation of how a market will be expanded and the degree to which incremental revenue will accrue to the benefit of the Agricultural Producer(s).

ii. Performance Evaluation Criteria. Applicants applying for Planning Grants must suggest at least one criterion by which their performance under a grant could be evaluated. Applicants applying for Working Capital Grants must identify the projected increase in customer base, revenue accruing to Independent Producers, and number of jobs attributed to the Project. Working capital projects with significant energy components must also identify the projected increase in capacity (e.g. gallons of ethanol produced annually, megawatt hours produced annually) attributed to the Project. Please note that these criteria are different from the Proposal Evaluation Criteria and are a separate requirement.

iii. Proposal Evaluation Criteria. Each of the proposal evaluation criteria referenced in this funding announcement must be addressed, specifically and individually, in narrative form. Applications that do not address the appropriate criteria (Planning Grant applications must address Planning Grant evaluation criteria and Working Capital Grant applications must address Working Capital Grant evaluation criteria) will be considered ineligible.

9. Certification of Matching Funds. Applicants must certify that Matching Funds will be available at the same time grant funds are anticipated to be spent and that Matching Funds will be spent in advance of grant funding, such that for every dollar of grant funds advanced, not less than an equal amount of Matching Funds will have been expended prior to submitting the request for reimbursement. Please note that this certification is a separate requirement from the verification of matching funds requirement. Applicants must include a statement for this section

that reads as follows: ''[INSERT NAME OF APPLICANT] certifies that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent in advance of grant funding, such that for every dollar of grant funds advanced, not less than an equal amount of matching funds will have been expended prior to submitting the request for reimbursement.'' A separate signature is not required.

10. Verification of Matching Funds. Applicants must provide documentation of all proposed Matching Funds, both cash and in-kind. The documentation must be included in the Appendix.

If Matching Funds are to be provided by the applicant in cash, a copy of a bank statement with an ending date within one month of the application submission is required. The bank statement must show an ending balance equal to or greater than the amount of cash Matching Funds proposed. If the Matching Funds will be provided through a loan or line of credit, the applicant must include a signed letter from the lending institution verifying the amount available, the time period of availability of the funds, and the purposes for which funds may be used.

If the Matching Funds are to be provided by the applicant through an in-kind contribution, the application must include a signed letter from the applicant verifying the goods or services to be donated, when the goods and services will be donated, and the value of the goods or services. Please note that if the applicant organization is purchasing goods or services for the grant (e.g. salaries, inventory), the contribution is considered a cash contribution and must be verified as described in the preceding paragraph. Also, if an owner or employee of the applicant organization is donating goods or services, the contribution is considered a third-party in-kind contribution and must be verified as described below. Verification for in-kind contributions donated outside the proposed time period of the grant will not be accepted. Verification for in-kind contributions that are over-valued will not be accepted. The valuation process for the in-kind funds does not need to be included in the application, especially if it is lengthy, but the applicant must be able to demonstrate how the valuation was achieved at the time of notification of tentative selection for the grant award. If the applicant cannot satisfactorily demonstrate how the valuation was determined, the grant award may be withdrawn or the amount of the grant may be reduced.

If the Matching Funds are to be provided by a third party in cash, the application must include a signed letter from that third party verifying how much cash will be donated and when it will be donated. Verification for funds donated outside the proposed time period of the grant will not be accepted.

If the Matching Funds are to be provided by a third party in-kind donation, the application must include a signed letter from the third party verifying the goods or services to be donated, when the goods and services will be donated, and the value of the goods or services. Verification for in-kind contributions donated outside the proposed time period of the grant will not be accepted. Verification for in-kind contributions that are over-valued will not be accepted. The valuation process for the in-kind funds does not need to be included in the application, especially if it is lengthy, but the applicant must be able to demonstrate how the valuation was achieved at the time of notification of tentative selection for the grant award. If the applicant cannot satisfactorily demonstrate how the valuation was determined, the grant award may be withdrawn or the amount of the grant may be reduced.

If Matching Funds are in cash, they must be spent on goods and services that are eligible expenditures for this grant program. If Matching Funds are in-kind contributions, the donated goods or services must be considered eligible expenditures for this grant program. The Matching Funds must be spent or donated during the grant period and the funds must be expended at a rate equal to or greater than the rate grant funds are expended. Some examples of acceptable uses for matching funds are: skilled labor performing work required for the proposed Project, office supplies, and purchasing inventory. Some examples of unacceptable uses of matching funds are: Land, fixed equipment, buildings, and vehicles.

Expected program income may not be used to fulfill the Matching Funds requirement at the time of application. If program income is earned during the time period of the grant, it is subject to the requirements of 7 CFR part 3015, subpart F and 7 CFR 3019.24 and any provisions in the Grant Agreement.

C. Submission Dates and Times

Application Deadline Date: May 16, 2007.

Explanation of Deadlines: Paper applications must be postmarked by the deadline date (see Section IV.F. for the address). Final electronic applications must be received by Grants.gov by the deadline date. If an application does not meet the deadline above, it will not be considered for funding. Applicants will be notified that their applications did not meet the submission deadline. Applicants will also be notified by mail or by e-mail if their applications are received on time.

D. Intergovernmental Review of Applications

Executive Order (EO) 12372, Intergovernmental Review of Federal Programs, applies to this program. This EO requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. A list of states that maintain an SPOC may be obtained at *http://www.whitehouse.gov/omb/grants/spoc.html.* If an applicant's state has an SPOC, the applicant may submit the application directly for review. Any comments obtained through the SPOC must be provided to Rural Development for consideration as part of the application. If the applicant's state has not established an SPOC, or the applicant does not want to submit the application, Rural Development will submit the application to the SPOC or other appropriate agency or agencies.

Applicants are also encouraged to contact their Rural Development State Office for assistance and questions on this process. The Rural Development State Office can be reached by calling (202) 720–4323 and selecting option ''1'' or by viewing the following Web site: *http://www.rurdev.usda.gov/.*

E. Funding Restrictions

Funding restrictions apply to both grant funds and matching funds. Funds may only be used for planning activities or working capital for Projects focusing on processing and marketing a value-added product.

1. Examples of acceptable planning activities include:

i. Obtaining legal advice and assistance related to the proposed Venture;

ii. Conducting a Feasibility Study of a proposed Value-Added Venture to help determine the potential marketing success of the Venture;

iii. Developing a Business Plan that provides comprehensive details on the management, planning, and other operational aspects of a proposed Venture; and

iv. Developing a marketing plan for the proposed Value-Added product, including the identification of a market window, the identification of potential buyers, a description of the distribution

system, and possible promotional campaigns.

2. Examples of acceptable working capital uses include:

i. Designing or purchasing an accounting system for the proposed Venture;

ii. Paying for salaries, utilities, and rental of office space;

iii. Purchasing inventory, office equipment (e.g. computers, printers, copiers, scanners), and office supplies (e.g. paper, pens, file folders); and

iv. Conducting a marketing campaign for the proposed Value-Added product.

3. No funds made available under this solicitation shall be used to:

i. Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

ii. Purchase, rent, or install fixed equipment, including processing equipment;

iii. Purchase vehicles, including boats;

iv. Pay for the preparation of the grant application;

v. Pay expenses not directly related to the funded Venture;

vi. Fund political or lobbying activities;

vii. Fund any activities prohibited by 7 CFR parts 3015 and 3019;

viii. Fund architectural or engineering design work for a specific physical facility;

ix. Fund any expenses related to the production of any commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility. The Agency considers these expenses to be ineligible because the intent of the program is to assist producers with marketing value-added products rather than producing Agricultural Commodities;

x. Fund research and development;

xi. Purchase land;

xii. Duplicate current services or replace or substitute support previously provided;

xiii. Pay costs of the Project incurred prior to the date of grant approval;

xiv. Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence; or

xv. Pay any judgment or debt owed to the United States; or

xvi. Conduct activities on behalf of anyone other than a specific Independent Producer or group of Independent Producers. The Agency considers conducting industry-level Feasibility Studies and Business Plans that are also known as feasibility study templates or guides or business plan templates or guides to be ineligible because the assistance is not provided to a specific group of Independent Producers.

xvii. Pay for any goods or services provided by a person or entity who has a Conflict of Interest. Also, note that in-kind Matching Funds may not be provided by a person or entity that has a Conflict of Interest.

F. Other Submission Requirements

Paper applications must be submitted to USDA Rural Development Cooperative Programs, Attn: VAPG Program, Mail STOP 3250, Room 4016-South, 1400 Independence Ave., SW., Washington, DC 20250–3250. The phone number that should be used for courier delivery is (202) 720–7558. Applications can also be submitted electronically at *http://www.grants.gov*. Applications submitted by electronic mail, facsimile, or by hand-delivery will not be accepted. Each application submission must contain all required documents in one envelope, if by mail or courier delivery service.

V. Application Review Information

A. Criteria

All eligible and complete applications will be evaluated based on the following criteria. Applications for Planning Grants have different criteria to address than applications for Working Capital Grants.

1. Criteria for applications for Planning Grants are:

i. *Nature of the proposed venture (0–10 points).* Projects will be evaluated for technological feasibility, operational efficiency, profitability, sustainability and the likely improvement to the local rural economy. Evaluators may rely on their own knowledge and examples of similar ventures described in the proposal to form conclusions regarding this criterion. Points will be awarded based on the greatest expansion of markets and increased returns to producers based on the following structure.

- 0 points will be awarded if the applicant does not substantively address the criterion.
- 1–3 points will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in all areas of the criterion.
- 4–6 points will be awarded if the applicant demonstrates that the Project meets part, but not all, of the criterion.
- 7–9 points will be awarded if the applicant demonstrates that the Project is strong in all areas of the criterion.
- 10 points will only be awarded if the applicant demonstrates that the Project is strong in all areas of the criterion and the Project is expected to significantly expand the market for the Value-Added product to be produced and/or the Project will significantly increase returns to the Independent Producer owners of the Venture.

ii. *Qualifications of those doing work (0–5 points).* Proposals will be reviewed for whether the personnel who are responsible for doing proposed tasks, including those hired to do the studies, have the necessary qualifications. If a consultant or others are to be hired, more points may be awarded if the proposal includes evidence of their availability and commitment as well. If staff or consultants have not been selected at the time of application, the application should include specific descriptions of the qualifications required for the positions to be filled. The qualifications of the personnel and consultants should be discussed directly within the response to this criterion. If resumes are included, those pages will be counted toward the page limit for the narrative. Points will be awarded as follows:

- 0 points will be awarded if the applicant does not substantively address the criterion.
- 1 point will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in the qualifications of the personnel.
- 2–3 points will be awarded if the applicant demonstrates that the qualifications of the personnel are adequate for the Project.
- 4 points will be awarded if the applicant demonstrates that the qualifications of the personnel are above average for the Project.
- 5 points will only be awarded if the applicant demonstrates that the qualifications of the personnel are outstanding and could not be improved.

iii. *Commitments and support (0–10 points).* Producer commitments will be evaluated on the basis of the number of Independent Producers currently involved as well as how many may potentially be involved, and the nature, level and quality of their contributions. End user commitments will be evaluated on the basis of potential markets and the potential amount of output to be purchased. Proposals will be reviewed for evidence that the project enjoys third party support and endorsement, with emphasis placed on financial and in kind support as well as technical assistance. Support should be discussed directly within the response to this criterion. If support letters are included, those pages will be counted

toward the page limit for the narrative. Points will be awarded based on the greatest level of documented and referenced commitment. Points will be awarded as follows:

• 0 points will be awarded if the applicant does not substantively address the criterion.

• 1–3 points will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in all areas of the criterion.

• 4–6 points will be awarded if the applicant demonstrates that the Project has strong financial commitment from all of the Independent Producer owners of the Venture, but lacks third-party support and end user commitment.

• 7–9 points will be awarded if the applicant demonstrates that the Project has strong financial commitment from all of the Independent Producer owners of the Venture AND there is third party financial and/or in-kind support, but lacks end user commitment.

• 10 points will only be awarded if the applicant demonstrates that the Project has strong financial commitment from all of the Independent Producer owners of the Venture AND there is third party financial and/or in-kind support AND there is evidence of end user commitment.

iv. *Project leadership (0–5 points).* The leadership abilities of individuals who are proposing the Venture will be evaluated as to whether they are sufficient to support a conclusion of likely project success. Credit may be given for leadership evidenced in community or volunteer efforts. The leadership abilities should be discussed directly within the response to this criterion. If resumes are attached at the end of the application, those pages will be counted toward the page limit for the narrative. Points will be awarded as follows:

• 0 points will be awarded if the applicant does not substantively address the criterion.

• 1 point will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in the leadership abilities.

• 2–3 points will be awarded if the applicant demonstrates that the leadership abilities are adequate for the Project.

• 4 points will be awarded if the applicant demonstrates that the leadership abilities are above average for the Project.

• 5 points will only be awarded if the applicant demonstrates that the leadership abilities are outstanding and could not be improved.

v. *Work plan/budget (0–10 points).* Applicants must submit a work plan and budget. The work plan will be reviewed to determine whether it provides specific and detailed descriptions of tasks that will accomplish the project's goals. The budget will be reviewed for a detailed breakdown of estimated costs associated with the planning activities. The budget must present a detailed breakdown of all estimated costs associated with the planning activities and allocate these costs among the listed tasks. Points may not be awarded unless sufficient detail is provided to determine whether or not funds are being used for qualified purposes. Matching funds as well as grant funds must be accounted for in the budget to receive points. Points will be awarded as follows:

• 0 points will be awarded if the applicant does not substantively address the criterion.

• 1–3 points will be awarded if the budget and work plan only associate grant and matching funds dollar amounts with Project tasks, but do not identify specific time frames and personnel by task.

• 4–6 points will be awarded if the budget and work plan associate grant and matching funds dollar amounts with Project tasks and identify specific time frames for Project tasks, but do not identify personnel for Project tasks.

• 7–9 points will be awarded if the budget and work plan associate grant and matching dollar amounts, specific time frames, and personnel with Project tasks.

• 10 points will only be awarded if the budget and work plan associate dollar amounts, specific time frames, and personnel with Project tasks and these dollar amounts, time frames, and personnel are realistic for the Project.

vi. *Amount requested (0 or 2 points).* Two points will be awarded for grant requests of $50,000 or less. To determine the number of points to award, the Agency will use the amount indicated in the work plan and budget.

vii. *Project cost per owner-producer (0–3 points).* The applicant must state the number of Independent Producers that are owners of the Venture. Points will be calculated by dividing the amount of Federal funds requested by the total number of Independent Producers that are owners of the Venture. The allocation of points for this criterion shall be as follows:

• 0 points will be awarded to applications without enough information to determine the number of owner-producers.

• 1 point will be awarded to applications with a project cost per owner-producer of $70,001–$100,000.

• 2 points will be awarded to applications with a project cost per owner-producer of $35,001–$70,000.

• 3 points will be awarded to applications with a project cost per owner-producer of $1–$35,000.

An owner cannot be considered an Independent Producer unless he/she is a producer of the Agricultural Commodity to which value will be added as part of this Project. For Agriculture Producer Groups, the number used must be the number of Independent Producers represented who produce the commodity to which value will be added. In cases where family members (including husband and wife) are owners and producers in a Venture, each family member shall count as one owner-producer.

Applicants must be prepared to prove that the numbers and individuals identified meet the requirements specified upon notification of a grant award. Failure to do so shall result in withdrawal of the grant award.

viii. *Business management capabilities (0–10 points).* Applicants must discuss their financial management system, procurement procedures, personnel policies, property management system, and travel procedures. Up to two points can be awarded for each component of this criterion, based on the appropriateness of the system, procedures or policies to the size and structure of the business applying. Larger, more complex businesses will be expected to have more complex systems, procedures, and policies than smaller, less complex businesses.

ix. *Sustainability and economic impact (0–15 points).* Projects will be evaluated based on the expected sustainability of the Venture and the expected economic impact on the local economy. Points will be awarded as follows:

• 0–4 points will be awarded if the applicant does not substantively address the criterion.

• 5–9 points will be awarded if the applicant demonstrates that the Project has a reasonable chance of success OR will have a small impact on the local economy.

• 10–14 points will be awarded if the applicant demonstrates that the Project has a reasonable chance of success and will have a small impact on the local economy.

• 15 points will only be awarded if the applicant demonstrates that the Project is likely to succeed and that it will have a significant impact on the local economy.

x. *Business size (5 points if the application meets the criterion or 0*

points if the application does not meet the criterion). Applicants must state the amount of gross sales earned for their most recent complete fiscal year or start-up operations must state that that they have not completed a fiscal year. Points will be awarded as follows:

• 0 points will be awarded to applicants that have $10 million or more in gross sales OR to applicants that do not provide enough information to determine gross sales.

• 5 points will be awarded to applicants that have less than $10 million in gross sales.

If an applicant is tentatively selected for funding, the applicant will need to verify the gross sales amount at the time of award. Failure to verify the amount stated in the application will be grounds for withdrawing the award.

xi. *Administrator points (up to 5 points, but not to exceed 10 percent of the total points awarded for the other 10 criteria).* The Administrator of USDA Rural Development Business and Cooperative Programs may award additional points to recognize innovative technologies, insure geographic distribution of grants, or encourage Value-Added Projects in under-served areas. Applicants may submit an explanation of how the technology proposed is innovative and/or specific information verifying that the project is in an under-served area.

2. Criteria for Working Capital applications are:

i. *Business viability (0–10 points).* Proposals will be evaluated on the basis of the technical and economic feasibility and sustainability of the Venture and the efficiency of operations. Points will be awarded as follows:

• 0 points will be awarded if the applicant does not substantively address the criterion.

• 1–3 points will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in all areas of the criterion.

• 4–6 points will be awarded if the applicant demonstrates that the Project is strong for at least half of the components of the criterion.

• 7–9 points will be awarded if the applicant demonstrates that the Project is strong in at least three components of the criterion.

• 10 points will only be awarded if the applicant demonstrates that the Project is strong based on all components of the criterion.

ii. *Customer base/increased returns (0–10 points).* Describe in detail how the customer base for the product being produced will expand because of the Value-Added Venture. Provide documented estimates of this expansion. Describe in detail how a greater portion of the revenue derived from the venture will be returned to the producers that are owners of the Venture. Applicants should also reference the pro forma financial statements developed for the Venture. Applications that demonstrate strong growth in a market or customer base and greater Value-Added revenue accruing to producer-owners will receive more points than those that demonstrate less growth in markets and realized Value-Added returns. Points will be awarded as follows:

• 0 points will be awarded if the applicant does not substantively address the criterion.

• 1–3 points will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in all areas of the criterion.

• 4–6 points will be awarded if the applicant demonstrates that the Project will reasonably expand the customer base for the Value-Added product OR increase returns to the Independent Producer owners of the Venture.

• 7–9 points will be awarded if the applicant demonstrates that the Project will reasonably expand the customer base for the Value-Added product AND increase returns to the Independent Producer owners of the Venture.

• 10 points will only be awarded if the applicant demonstrates that the Project is expected to expand the customer base for the Value-Added product AND increase returns to the Independent Producer owners of the Venture in an exceptional way.

iii. *Commitments and support (0–5 points).* Producer commitments will be evaluated on the basis of the number of Independent Producers currently involved as well as how many may potentially be involved, and the nature, level and quality of their contributions. End user commitments will be evaluated on the basis of identified markets, letters of intent or contracts from potential buyers and the amount of output to be purchased. Applications will be reviewed for evidence that the Project enjoys third party support and endorsement, with emphasis placed on financial and in kind support as well as technical assistance. Support should be discussed directly within the response to this criterion. If support letters are included, those pages will be counted toward the page limit for the narrative. Points will be awarded based on the greatest level of documented and referenced commitment. Points will be awarded as follows:

• 0 points will be awarded if the applicant does not substantively address the criterion.

• 1 point will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in all areas of the criterion.

• 2–3 points will be awarded if the applicant demonstrates that the Project has strong financial commitment from all of the Independent Producer owners of the Venture, but lacks third-party support and end user commitment.

• 4 points will be awarded if the applicant demonstrates that the Project has strong financial commitment from all of the Independent Producer owners of the Venture and there is third party financial and/or in-kind support, but lacks end user commitment.

• 5 points will only be awarded if the applicant demonstrates that the Project has strong financial commitment from all of the Independent Producer owners of the Venture and there is third party financial and/or in-kind support AND there is evidence of end user commitment.

iv. *Management team/work force (0–5 points).* The education and capabilities of project managers and those who will operate the Venture must reflect the skills and experience necessary to affect Project success. The availability and quality of the labor force needed to operate the Venture will also be evaluated. Applicants must provide the information necessary to make these determinations. Applications that reflect successful track records managing similar projects will receive higher points for this criterion than those that do not reflect successful track records. Points will be awarded as follows:

• 0 points will be awarded if the applicant does not substantively address the criterion.

• 1 point will be awarded if the applicant only partially addresses the criterion or demonstrates weakness in the qualifications of the personnel.

• 2–3 points will be awarded if the applicant demonstrates that the education and capabilities of the Project managers and operators of the Venture and the availability and quality of the labor force are adequate for the Project.

• 4 points will be awarded if the applicant demonstrates that the education and capabilities of the Project managers and operators of the Venture and the availability and quality of the labor force are above average for the Project.

• 5 points will only be awarded if the applicant demonstrates that the education and capabilities of the Project managers and operators of the Venture and the availability and quality of the labor force are outstanding and could not be improved.

v. *Work plan/budget (0–10 points).* The work plan will be reviewed to determine whether it provides specific and detailed descriptions of tasks that will accomplish the project's goals and the budget will be reviewed for a detailed breakdown of estimated costs associated with the proposed activities. The budget must present a detailed breakdown of all estimated costs associated with the Project's operations and allocate these costs among the listed tasks. Points may not be awarded unless sufficient detail is provided to determine whether or not funds are being used for qualified purposes. Matching Funds as well as grant funds must be accounted for in the budget to receive points. Points will be awarded as follows:

- 0 points will be awarded if the applicant does not substantively address the criterion.
- 1–3 points will be awarded if the budget and work plan only associate grant and matching funds dollar amounts with Project tasks, but do not identify specific time frames and personnel by task.
- 4–6 points will be awarded if the budget and work plan associate grant and matching funds dollar amounts with Project tasks and identify specific time frames for Project tasks, but do not identify personnel for Project tasks.
- 7–9 points will be awarded if the budget and work plan associate grant and matching dollar amounts, specific time frames, and personnel with Project tasks.
- 10 points will only be awarded if the budget and work plan associate dollar amounts, specific time frames, and personnel with Project tasks and these dollar amounts, time frames, and personnel are realistic for the Project.

vi. *Amount requested (0 or 2 points).* Two points will be awarded for grant requests of $150,000 or less. To determine the number of points to award, the Agency will use the amount indicated in the work plan and budget.

vii. *Project cost per owner-producer (0–3 points).* The applicant must state the number of Independent Producers that are owners of the Venture. Points will be calculated by dividing the amount of Federal funds requested by the total number of Independent Producers that are owners of the Venture. The allocation of points for this criterion shall be as follows:

- 0 points will be awarded to applications without enough information to determine the number of owner-producers.
- 1 point will be awarded to applications with a project cost per owner-producer of $200,001–$300,000.
- 2 points will be awarded to applications with a project cost per owner-producer of $100,001–$200,000.
- 3 points will be awarded to applications with a project cost per owner-producer of $1–$100,000.

An owner cannot be considered an Independent Producer unless he/she is a producer of the Agricultural Commodity to which value will be added as part of this Project. For Agriculture Producer Groups, the number used must be the number of Independent Producers represented who produce the commodity to which value will be added. In cases where family members (including husband and wife) are owners and producers in a Venture, each family member shall count as one owner-producer.

Applicants must be prepared to prove that the numbers and individuals identified meet the requirements specified upon notification of a grant award. Failure to do so shall result in withdrawal of the grant award.

viii. *Business management capabilities (0–10 points).* Applicants should discuss their financial management system, procurement procedures, personnel policies, property management system, and travel procedures. Up to two points can be awarded for each component of this criterion, based on the appropriateness of the system, procedures or policies to the size and structure of business applying. Larger, more complex businesses will be expected to have more complex systems, procedures, and policies than smaller, less complex businesses.

ix. *Sustainability and economic impact (0–15 points).* Projects will be evaluated based on the expected sustainability of the Venture and the expected economic impact on the local economy. Points will be awarded as follows:

- 0–4 points will be awarded if the applicant does not substantively address the criterion.
- 5–9 points will be awarded if the applicant demonstrates that the Project has a reasonable chance of success OR will have a small impact on the local economy.
- 10–14 points will be awarded if the applicant demonstrates that the Project has a reasonable chance of success and will have a small impact on the local economy.
- 15 points will only be awarded if the applicant demonstrates that the Project is likely to succeed and that it will have a significant impact on the local economy.

x. *Business size (5 points if the application meets the criterion or 0 points if the application does meet the criterion).* Applicants must state the amount of gross sales earned for their most recent complete fiscal year or start-up operations must state that that they have not completed a fiscal year. Points will be awarded as follows:

- 0 points will be awarded to applicants that have $10 million or more in gross sales or to applicants that do not provide enough information to determine gross sales.
- 5 points will be awarded to applicants that have less than $10 million in gross sales.

If an applicant is tentatively selected for funding, the applicant will need to verify the gross sales amount at the time of award. Failure to verify the amount stated in the application will be grounds for withdrawing the award.

xi. *Administrator points (up to 5 points, but not to exceed 10 percent of the total points awarded for the other 10 criteria).* The Administrator of USDA Rural Development Business and Cooperative Programs may award additional points to recognize innovative technologies, insure geographic distribution of grants, or encourage value-added projects in under-served areas. Applicants may submit an explanation of how the technology proposed is innovative and/or specific information verifying that the project is in an under-served area.

B. Review and Selection Process

The Agency will conduct an initial screening of all applications for eligibility and to determine whether the application is complete and sufficiently responsive to the requirements set forth in this Notice to allow for an informed review.

All eligible and complete proposals will be evaluated by three reviewers based on criteria i through v described in Section V.1 or V.2. One of these reviewers will be a Rural Development employee not from the servicing State Office and the other two reviewers will be non-Federal persons. All reviewers must either: (1) Possess at least five years of working experience in an agriculture-related field, or (2) have obtained at least a bachelors degree in one or more of the following fields: Agri-business, business, economics, finance, or marketing and have a minimum of three years of experience in an agriculture-related field (*e.g.* farming, marketing, consulting, university professor, research, officer for trade association, government employee for an agricultural program). Once the scores for criteria i through v have been completed by the three reviewers, they

will be averaged to obtain the independent reviewer score.

The application will also receive one score from the Rural Development servicing State Office based on criteria vi through x. This score will be added to the independent reviewer score.

Finally, the Administrator of USDA Rural Development Business and Cooperative Programs will award any Administrator points based on Proposal Evaluation Criterion xi. These points will be added to the cumulative score for criteria i through x. A final ranking will be obtained based solely on the scores received for criteria i through xi.

After the award selections are made, all applicants will be notified of the status of their applications by mail. Grantees must meet all statutory and regulatory program requirements in order to receive their award. In the event that a grantee cannot meet the requirements, the award will be withdrawn. Applicants for Working Capital Grants must submit complete, independent third-party Feasibility Studies and Business Plans before the grant award can be finalized. All Projects will be evaluated by the servicing State Office prior to finalizing the award to ensure that funded Projects are likely to be feasible in the proposed project area. Regardless of scoring, a Project determined to be unlikely to be feasible by the servicing State Office with concurrence by the National Office will not be funded.

C. Anticipated Announcement and Award Dates

Award Date: The announcement of award selections is expected to occur on or about September 1, 2007.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive a notification of tentative selection for funding from Rural Development. Applicants must comply with all applicable statutes, regulations, and this notice before the grant award will receive final approval.

Unsuccessful applicants will receive notification, including dispute resolution alternatives, by mail.

B. Administrative and National Policy Requirements

7 CFR parts 3015, 3019, and 4284. These regulations may be accessed at *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1.*

The following additional requirements apply to grantees selected for this program:

Grant Agreement.

Letter of Conditions.

Form RD 1940–1, ''Request for Obligation of Funds.''

Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.''

Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions.''

Form AD–1049, ''Certification Regarding a Drug-Free Workplace Requirements (Grants).''

Form RD 400–4, ''Assurance Agreement.''

Additional information on these requirements can be found at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm.*

Reporting Requirements: Grantees must provide Rural Development with a paper or electronic copy that includes all required signatures of the following reports. The reports must be submitted to the Agency contact listed on the Grant Agreement and Letter of Conditions. Failure to submit satisfactory reports on time may result in suspension or termination of the grant.

1. Form SF–269 or SF–269A. A ''Financial Status Report,'' listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting periods end each March 31 and September 30, regardless of when the grant period begins. Reports are due 30 days after the reporting period ends.

2. Semi-annual performance reports that compare accomplishments to the objectives stated in the Grant Agreement. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reports are due as provided in paragraph (1) of this section. Supporting documentation must also be submitted for completed tasks. The supporting documentation for completed tasks include, but are not limited to, Feasibility Studies, marketing plans, Business Plans, articles of incorporation and bylaws and an accounting of how working capital funds were spent.

3. Final Project performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed and provide documentation supporting the reported results. If the original schedule provided in the work plan was not met, the report must discuss the problems or delays that affected completion of the project. Compliance with any special condition on the use of award funds should be discussed. Supporting documentation for completed tasks must also be submitted. The supporting documentation for completed tasks include, but are not limited to, Feasibility Studies, marketing plans, Business Plans, articles of incorporation and bylaws and an accounting of how working capital funds were spent. Planning Grant Projects must also report the estimated increase in revenue, increase in customer base, number of jobs created, and any other relevant economic indicators generated by continuing the project into its operational phase. Working Capital Grants must report the increase in revenue, increase in customer base, number of jobs created, any other relevant economic indicators generated by the project during the grant period in addition to the total funds used for the Venture during the grant period. These total funds must include other federal, state, local, and other funds used for the venture. Projects with significant energy components must also report expected or actual capacity (*e.g.* gallons of ethanol produced annually, megawatt hours produced annually) and any emissions reductions incurred during the project. The final performance report is due within 90 days of the completion of the project.

VII. Agency Contacts

For general questions about this announcement and for program technical assistance, applicants should contact their USDA Rural Development State Office at *http://www.rurdev.usda.gov/rbs/coops/vadg.htm.* The State Office can also be reached by calling (202) 720–4323 and pressing ''1''. If an applicant is unable to contact their State Office, a nearby State Office may be contacted or the RBS National Office can be reached at Mail STOP 3250, Room 4016–South, 1400 Independence Avenue, SW., Washington, DC 20250–3250, Telephone: (202) 720–7558, e-mail: *cpgrants@wdc.usda.gov.*

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs,

reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (866) 632–9992 (voice) or (202) 401–0216 (TDD). USDA is an equal opportunity provider and employer.

Dated: April 10, 2007.

Jackie J. Gleason,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E7–7110 Filed 4–13–07; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Bureau of the Census

2010 Census Advisory Committee

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a meeting of the 2010 Census Advisory Committee. Committee members will address policy, research, and technical issues related to the 2010 Decennial Census Program. Working groups will be convened to assist in planning efforts for the 2010 Census and the American Community Survey. Last-minute adjustments to the agenda are possible, which could prevent giving advance notification of schedule changes.

DATES: May 17–18, 2007. On May 17, the meeting will begin at 8:30 a.m. and end at approximately 5:15 p.m. On Friday, May 18, 2007, the meeting will begin at 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Ms. Jeri Green, Committee Liaison Officer, U.S. Department of Commerce, U.S. Census Bureau, Room 8H153, Washington, DC 20233, telephone (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: The 2010 Census Advisory Committee is composed of a Chair, Vice-Chair, and 20 member organizations—all appointed by the Secretary of Commerce. The Committee considers the goals of the decennial census, including the American Community Survey and related programs, and users' needs for information provided by the decennial census from the perspective of outside data users and other organizations having a substantial interest and expertise in the conduct and outcome of the decennial census. The Committee has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10(a)(b)).

A brief period will be set aside at the meeting for public comment. However, individuals with extensive statements for the record must submit them in writing to the Census Bureau Committee Liaison Officer named above at least three working days prior to the meeting. Seating is available to the public on a first-come, first-served basis.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Dated: April 11, 2007.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. E7–7121 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Data Sharing Activity

AGENCY: Bureau of Economic Analysis, Department of Commerce.

ACTION: Notice of determination.

SUMMARY: The Bureau of Economic Analysis (BEA) will provide to the Bureau of the Census (Census Bureau) data collected from several surveys that it conducts on U.S. direct investment abroad, foreign direct investment in the United States, and U.S. international services transactions for statistical purposes exclusively. In accordance with the requirement of Section 524(d) of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), we provided the opportunity for public comment on this data-sharing action (see the January 23, 2007 edition of the **Federal Register** (72 FR 2854)).

The data provided to Census Bureau will be used for two purposes:

(1) Data from BEA surveys of U.S. direct investment abroad and foreign direct investment in the United States will be linked with data from the Survey of Industrial Research and Development conducted by the Census Bureau under a joint partnership agreement with the National Science Foundation (NSF). The linked data will be used to produce aggregate tabulations for the NSF, which will provide an integrated data set on R&D performance and funding with domestic and foreign ownership detail. BEA will use the linked data to augment its existing R&D-related data, identify data quality issues arising from reporting differences in BEA and Census Bureau surveys, and improve its survey sample frames. The Census Bureau will identify unmatched companies on BEA files that conduct R&D activities and add them to the R&D survey to improve the survey's sample. The NSF will be provided non-confidential aggregate data (public use) and reports that have cleared BEA and Census Bureau disclosure review. Disclosure review is a process conducted to verify that the data to be released do not reveal any confidential information.

(2) BEA will also provide data to the Census Bureau in order to link records from its surveys of U.S. international services transactions, U.S. direct investment abroad, and foreign direct investment in the United States with information from the Census Bureau's Business Register and with data from the 2002 Economic Census. This linked information will be used by the BEA to evaluate the feasibility of developing state-level estimates of service exports.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on this program should be directed to Ned G. Howenstine, Chief, Research Branch, International Investment Division, Bureau of Economic Analysis (BE–50), Washington, DC 20230, by phone (202) 606–9845 or by fax (202) 606–5318.

SUPPLEMENTARY INFORMATION:

Background

CIPSEA (Pub. L. 107–347, Title V) and the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 United States Code (U.S.C.) 3101–3108) allow BEA and the Census Bureau to share certain business data for exclusively statistical purposes. Section 524(d) of the CIPSEA required a **Federal Register** notice announcing the intent to share data (allowing 60 days for public comment). Section 524(d) also required us to provide information about the terms of the agreement for data sharing.

On January 23, 2007 (72 FR 2854), BEA published in the **Federal Register** a notice of this proposed data-sharing activity and request for comment on the

subject. BEA did not receive any public comments.

Shared Data

BEA will provide the Census Bureau with data from its surveys of U.S. direct investment abroad, foreign direct investment in the United States, and U.S. international services transactions. It is anticipated that the Census Bureau will share data collected from the Survey of Industrial Research and Development, the 2002 Economic Census, and its Business Register with BEA. The Census Bureau will issue a separate notice addressing this issue. The shared BEA and Census Bureau data will be used for statistical purposes only.

Statistical Purposes for the Shared Data

Data collected in BEA's surveys of direct investment are used to develop estimates of the financing and operations of U.S. parent companies, their foreign affiliates, and U.S. affiliates of foreign companies, and estimates of transactions and positions between parents and affiliates. Data collected in BEA's surveys of U.S. international services transactions are used to develop estimates of services transactions between U.S. persons (in a broad legal sense, including companies) and foreign persons. These estimates are published in the *Survey of Current Business*, BEA's monthly journal; in other BEA publications; and on BEA's Web site at *http://www.bea.gov/*. All data are collected under sections 3101–3108, of Title 22, U.S.C.

The data sets created by linking these data with the data from the above-designated Census Bureau surveys and Business Register will be used for several exclusively statistical purposes by both agencies, such as for evaluating the feasibility of developing state-level estimates of U.S. services exports, and producing aggregate tabulations of data for the NSF that augment and improve information on international aspects of R&D performance, funding, and related economic activity.

Data Access and Confidentiality

Title 22, U.S.C. 3104 protects the confidentiality of the data to be provided by BEA to the Census Bureau. The data may be seen only by persons sworn to uphold the confidentiality of the information. Access to the shared data will be restricted to specifically authorized personnel and will be provided for statistical purposes only. Any results of this research are subject to BEA disclosure protection. All Census Bureau employees with access to these data will become BEA Special Sworn Employees—meaning that they, under penalty of law, must uphold the data's confidentiality. Selected NSF employees will provide BEA with expertise on various aspects of R&D performance and funding of companies that provide data to BEA. These NSF consultants assisting with the work at the BEA also will become BEA Special Sworn Employees. No confidential data will be provided to the NSF.

Rosemary D. Marcuss,

Acting Director, Bureau of Economic Analysis.

[FR Doc. E7–7106 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1502]

Grant of Authority, Establishment of a Foreign–Trade Zone, Counties of Lehigh and Northampton, Pennsylvania

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board adopts the following Order:

WHEREAS, the Foreign–Trade Zones Act provides for ''. . . the establishment . . . of foreign–trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign–Trade Zones Board to grant to qualified corporations the privilege of establishing foreign–trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

WHEREAS, the Lehigh Valley Economic Development Corporation (the Grantee), a Pennsylvania non–profit agency, has made application to the Board (FTZ Docket 30–2006, filed 7/18/06), requesting the establishment of a foreign–trade zone at sites in Lehigh and Northampton Counties, Pennsylvania, adjacent to the Lehigh Valley Customs and Border Protection port of entry;

WHEREAS, notice inviting public comment has been given in the **Federal Register** (71 FR 42800, 7/28/06), and the application was amended on September 25, 2006 (71 FR 59072, 10/6/06);

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

NOW, THEREFORE, the Board hereby grants to the Grantee the privilege of establishing a foreign–trade zone, designated on the records of the Board as Foreign–Trade Zone No. 272, at the sites described in the application, as amended, and subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 5th day of April 2007.

FOREIGN–TRADE ZONES BOARD

Carlos M. Gutierrez,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. E7–7198 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Deemed Export Advisory Committee; Notice of Partially Closed Meeting

The Deemed Export Advisory Committee (DEAC) will meet in an open session on Wednesday, May 2, 2007 from 8 a.m.–12 p.m. at The Georgia Institute of Technology, Georgia Tech Research Institute Conference Center, 250 14th St., Atlanta, GA 30318. A map and directions to the Georgia Tech Research Institute Conference Center can be found at the following Web site: *http://www.gtri.gatech.edu/visitorinfo/gtriconfdriving.html*. The open session will also be webcast live from the Georgia Tech Research Institute Conference Center. For more information, please consult *http://www.export.gatech.edu* in the days prior to the meeting.

The DEAC is a Federal Advisory Committee established in accordance with the requirements of the Federal Advisory Committee Act, as amended, 5 U.S.C. app. 2. It advises the Secretary of Commerce on deemed export licensing policy. A tentative agenda of topics for discussion is listed below. While these topics will likely be discussed, this list is not exhaustive and there may be discussion of other related items during the public session.

May 2, 2007

Public Session

1. Introductory Remarks.
2. Current Deemed Export Control Policy Issues.
3. Technology Transfer Issues.
4. U.S. Industry Competitiveness.
5. U.S. Academic and Government Research Communities.
6. Industry, Academia and other Stakeholder Comments.

Limited parking will be available on-site for members of the public at a cost of $5 per vehicle. In addition, a limited number of seats will be available for the public session. Reservations will not be accepted. To the extent time permits, members of the general public may present oral statements to the DEAC. The general public may submit written statements at any time before or after the meeting. However, to facilitate distribution to DEAC members, BIS suggests that general public presentation materials or comments be forwarded before the meeting to Ms. Yvette Springer at *Yspringer@bis.doc.gov.*

May 2, 2007

Closed Session

The DEAC will also meet in a closed session on Wednesday, May 2, 2007, from 4 p.m.–6 p.m. During the closed session, there will be discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The Assistant Secretary for Administration formally determined on April 4, 2007, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4), the portion of the meeting concerning matters the premature disclosure of which would be likely to significantly frustrate implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B), and the portion of the meeting dealing with matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order (5 U.S.C. 52b(c)(1)(A) and (1)), shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(2) and 10(a)(3). All other portions of the DEAC meeting will be open to the public.

For more information, please call Yvette Springer at (202) 482–2813.

Dated: April 11, 2007.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 07–1869 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–549–813)

Continuation of Antidumping Duty Order on Canned Pineapple Fruit from Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on canned pineapple fruit (CPF) from Thailand would likely lead to continuation or recurrence of dumping, and material injury to an industry in the United States, the Department is publishing notice of continuation of this antidumping duty order.

EFFECTIVE DATE: April 16, 2007.

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Maureen Flannery, 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) 482–5050 or (202) 482–3020, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated and the ITC instituted sunset reviews of the antidumping duty order on CPF from Thailand, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year (''Sunset'') Reviews*; 71 FR 16551 (April 3, 2006), and *Institution of a five-year review concerning the antidumping duty order on canned pineapple fruit from Thailand*; 71 FR 16585 (April 3, 2006).

As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked. *See Canned Pineapple Fruit from Thailand; Final Results of the Full Sunset Review of Antidumping Duty Order*; 72 FR 9921 (March 6, 2007).

On April 4, 2007, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on canned pineapple fruit from Thailand would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Canned Pineapple Fruit from Thailand*; 72 FR 16384 (April 4, 2007), and USITC Publication 3911 (March 2007), (Inv. No. 731–TA–706) (Second Review).

Scope of the Order

The product covered by the order is CPF, defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. Imports of canned pineapple fruit are currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS 2008.20.0010 covers canned pineapple fruit packed in a sugar–based syrup; HTSUS 2008.20.0090 covers canned pineapple fruit packed without added sugar (i.e., juice–packed).

The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by this order is dispositive

Continuation of Order

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on canned pineapple fruit from Thailand. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6)(A) of the Act, the Department intends to initiate the next five-year review of this order not later than March 2012.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: April 10, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–7175 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Open Meeting.

DATE: May 11, 2007.

TIME: 9 a.m. to 3 p.m.

PLACE: Department of Commerce, 14th and Constitution Avenue, NW., Washington DC 20230, Room 4830.

SUMMARY: The Environmental Technologies Trade Advisory Committee (ETTAC) will hold a plenary meeting on May 11, 2007, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, in Room 4830. The ETTAC will discuss Committee priorities and goals for the year and other international topics related to trade and the environmental technologies industry. (e.g. the Asia Pacific Partnership on Clean Development and Climate; update on the latest round of negotiations in the World Trade Organization's environmental goods and services trade liberalization; intellectual property rights; etc.). The meeting is open to the public and time will be permitted for public comment.

Written comments concerning ETTAC affairs are welcome anytime before or after the meeting. Minutes will be available within 30 days of this meeting.

The ETTAC is mandated by Public Law 103–392. It was created to advise the U.S. government on environmental trade policies and programs, and to help it to focus its resources on increasing the exports of the U.S. environmental industry. ETTAC operates as an advisory committee to the Secretary of Commerce and the Trade Promotion Coordinating Committee (TPCC). ETTAC was originally chartered in May of 1994. It was most recently rechartered until September 3, 2008.

FOR FURTHER INFORMATION CONTACT: Ellen Bohon, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–0359. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at (202) 482–5225.

Dated: April 9, 2007.

Joe O. Neuhoff,

Director, Office of Energy and Environmental Industries.

[FR Doc. E7–7122 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040307C]

Taking and Importing of Marine Mammals

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

ACTION: Notice; affirmative finding renewal.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) has renewed the affirmative finding for the Government of Spain under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow yellowfin tuna harvested in the eastern tropical Pacific Ocean (ETP) in compliance with the International Dolphin Conservation Program (IDCP) by Spanish-flag purse seine vessels or purse seine vessels operating under Spanish jurisdiction to be imported into the United States. The affirmative finding was based on review of documentary evidence submitted by the Government of Spain and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the U.S. Department of State.

DATES: The renewal is effective from April 1, 2007, through March 31, 2008.

FOR FURTHER INFORMATION CONTACT: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213; phone 562–980–4000; fax 562–980–4018.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State.

The affirmative finding process requires that the harvesting nation is meeting its obligations under the IDCP and obligations of membership in the IATTC. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. On an annual basis, NMFS will review the affirmative finding and determine whether the harvesting nation continues to meet the requirements. A nation may provide information related to compliance with IDCP and IATTC measures directly to NMFS on an annual basis or may authorize the IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of the IDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f), the Assistant Administrator considered documentary evidence submitted by the Government of Spain or obtained from the IATTC and the Department of State and has determined that Spain has met the MMPA's requirements to receive an annual affirmative finding renewal.

After consultation with the Department of State, the Assistant Administrator issued the Government of Spain's annual affirmative finding renewal, allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Spanish-flag purse seine vessels or purse seine vessels operating under Spanish jurisdiction. Spain's affirmative finding will remain valid through March 31, 2010, subject to subsequent annual reviews by NMFS.

Dated: April 11, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service

[FR Doc. E7–7196 Filed 4–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0006]

Federal Acquisition Regulation; Information Collection; Subcontracting Plans/Subcontracting Report for Individual Contracts (Standard Form 294)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0006).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning subcontracting plans/subcontracting report for individual contracts (Standard Form 294). The clearance currently expires on August 31, 2007.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before June 15, 2007.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 9000–0006, Subcontracting Plans/Subcontracting Report for Individual Contracts (Standard Form 294), in all correspondence.

FOR FURTHER INFORMATION CONTACT: Rhonda Cundiff, Contract Policy Division, GSA (202) 501–0044.

SUPPLEMENTARY INFORMATION:

A. Purpose

In accordance with Federal Acquisition Regulation 19.702, contractors receiving a contract for more than the simplified acquisition threshold agree to have small business, small disadvantaged business, and women-owned small business, HUBZone small business, veteran-owned small business and service-disabled veteran-owned small business concerns participate in the performance of the contract as far as practicable. Contractors receiving a contract or a modification to a contract expected to exceed $550,000 ($1,000,000 for construction) must submit a subcontracting plan that provides maximum practicable opportunities for the above named concerns. Specific elements required to be included in the plan are specified in section 8(d) of the Small Business Act and implemented in FAR Subpart 19.7.

In conjunction with these plans, contractors must submit semiannual reports of their progress on Standard Form 294, Subcontracting Report for Individual Contracts.

B. Annual Reporting Burden

Respondents: 4,253.
Responses Per Respondent: 3.44.
Total Responses: 14,622.
Hours Per Response: 50.56
Total Burden Hours: 739,225.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0006, Subcontracting Plans/Subcontracting Report for Individual Contracts (Standard Form 294), in all correspondence.

Dated: April 6, 2007

Al Matera

Acting Director,Contract Policy Division

[FR Doc. 07–1861 Filed 4–13–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 15, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 9, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Innovation and Improvement

Type of Review: Reinstatement.
Title: Credit Enhancement for Charter School Facilities Performance Report.
Frequency: Annually.
Affected Public:
Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 23.

Burden Hours: 575.

Abstract: The Department will use the information through this report to monitor and evaluate competitive grants. These grants are made to private, non-profits; governmental entities; and consortia of these entities. These organizations will use the funds to leverage private capital to help charter schools construct, acquire, and renovate charter schools.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3302. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–7105 Filed 4–13–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 15, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 11, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Talent Search and EOC Programs Annual Performance Report Form.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 645.

Burden Hours: 3,870.

Abstract: Talent Search and Equal Opportunity Centers grantees must submit this report annually. The Department uses the reports to evaluate the performance of grantees prior to awarding continuation funding and to assess grantees' prior experience at the end of the budget period. The Department will also aggregate the data across grantees to provide descriptive information on the programs and to analyze its outcomes in response to the Government Performance and Results Act.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3312. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–7125 Filed 4–13–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 16, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested

Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 10, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Annual Performance Reporting (APR) Forms for NIDRR Grantees (RERCs, RRTCS, FIPs, ARRTs, DBTACs, DRRPs).

Frequency: Annually.

Affected Public: Not-for-profit institutions; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 271.

Burden Hours: 13,550.

Abstract: NIDRR will use the information gathered through these forms to comply with EDGAR, enable grantees to complete 5,248 reporting requirements, and provide OMB information required for assessment of performance on GPRA indicators and the PART evaluation. Respondents are approximately 270 grantees in 10 NIDRR programs.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3277. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–7127 Filed 4–13–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 15, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 10, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Vocational and Adult Education

Type of Review: New.

Title: Native American Vocational and Technical Education Program (NAVTEP) Performance Reports.

Frequency: Semi-Annually; Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 30.

Burden Hours: 1,213.

Abstract: The Native American Vocational and Technical Education Program (NAVTEP) is requesting approval to collect semi-annual and final performance reports from currently funded NAVTEP grantees. This information is necessary to (1) manage and monitor the current grantees, and (2) effectively close-out the grants at the end of their performance periods. The final performance reports will include final budgets, performance/statistical reports, GPRA reports, and final evaluation reports. The data, collected from the performance reports will be used to determine if the grantees successfully met their project goals and objectives, so that NAVTEP staff can close-out the grants in compliance.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3300. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete

title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–7128 Filed 4–13–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 16, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, *e.g.*, ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 10, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.

Title: State Proposals for Recognition of Rigorous Secondary School Programs of Study.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 38.

Burden Hours: 190.

Abstract: This information is required of States in order for the Secretary of Education to carry out the Academic Competitiveness Grant (ACG) Program to implement provisions of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Reconciliation Act of 2005 (HERA). The information will be used to determine whether the Secretary may recognize as rigorous, secondary school programs of study proposed by an individual State Educational Agency (SEA) or, if legally authorized by the State to establish a separate secondary school program of study, a Local Educational Agency (LEA). Participation in a rigorous secondary school program of study may qualify a postsecondary student to receive an ACG, if otherwise eligible.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3275. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–7129 Filed 4–13–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–325]

Application to Export Electric Energy; Citigroup Energy Canada ULC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE

ACTION: Notice of Application.

SUMMARY: Citigroup Energy Canada ULC (CECU) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before May 16, 2007.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (Fax 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C.824a(e)).

On March 28, 2007, the Department of Energy received an application from CECU for authority to transmit electric energy from the United States to Canada as a power marketer. CECU is a Canadian unlimited liability corporation with its principal place of business in Calgary, Alberta. CECU has requested an electricity export authorization with the maximum term allowed by DOE. CECU does not own or control any generation, transmission, or distribution assets, nor does it have a franchised service area. The electric energy which CECU proposes to export to Canada would be

surplus energy purchased from entities within the United States.

CECU will arrange for the delivery of exports to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International Transmission Co., Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, Inc., New York Power Authority, Niagara Mohawk Power Corp., Northern States Power Company, Vermont Electric Power Company, and Vermont Electric Transmission Co.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by CECU has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the dates listed above.

Comments on the CECU application to export electric energy to Canada should be clearly marked with Docket No. EA–325. Additional copies are to be filed directly with Victoria Sharp, Director, Citigroup Energy Inc., 2800 Post Oak Blvd., Suite 500, Houston, TX 77056 and Dan Watkiss and Andrea Kells, Bracewell & Giuliani LLP, 2000 K Street, NW., Suite 500, Washington, DC 20006.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above and at *http://www.oe.energy.gov/304.htm*.

Issued in Washington, DC, on April 10, 2007.

Anthony J. Como,

Director, Permitting and Siting Office of Electricity Delivery and Energy Reliability.

[FR Doc. E7–7131 Filed 4–13–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC07–80–000; FERC Form 80]

Commission Information Collection Activities, Proposed Collection; Comment Request; Reinstatement

April 9, 2007.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due June 16, 2007.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filings/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC07–80–000. Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing'', and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOlineSupport@ferc.gov* or toll-free at (866) 208–3676. or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form 80 ''Licensed Hydropower Development Recreation Report'' (OMB Control No. 1902–0106) is used by the Commission to implement the statutory provisions of sections 4(a), 10(a), 301(a), 304 and 309 of the Federal Power Act (FPA), 16 U.S.C. sections 797, 803, 825c and 8254. The authority for the Commission to collect this information comes from section 10(a) of the FPA which requires the Commission to be responsible for ensuring that hydro projects subject to its jurisdiction are consistent with the comprehensive development of the nation's waterway for recreation and other beneficial public uses. In the interest of fulfilling these objectives, the Commission expects licensees subject to its jurisdiction, to recognize the resources that are affected by their activities and to play a role in protecting such resources.

FERC Form 80 is a report on the use and development of recreational facilities at hydropower projects licensed by the Commission. Applications for amendments to licenses and/or changes in land rights frequently involve changes in resources available for recreation. Commission staff utilizes FERC Form 80 data when analyzing the adequacy of existing public recreational facilities and in the amendment review process to help determine the impact of such changes. In addition, the Commission's regional office staff uses the FERC Form 80 data when conducting inspections of licensed projects. The Commission's inspectors use the data in evaluating compliance with various license conditions and in identifying recreational facilities at hydropower projects.

The data required to be filed is specified by 18 Code of Federal Regulations (CFR) under 18 CFR 8.11 and 141.14.

The FERC Form 80 has been revised to facilitate greater ease to respondents in providing the information. First, FERC Form 80 has been updated to eliminate data concerning the nearest city and population, since Commission staff can access the information from

other sources. Second, Commission staff has clarified the definitions so respondents have a better understanding of the information to be provided. Third, resource data has been updated to include FERC approved recreational sites. Finally a new field has been added so that respondents can identify the method used for collecting the data.

Action: The Commission is requesting reinstatement and a three-year approval of the information collection with the changes noted above.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)x(2)x(3)
400	1	3	1,200

Estimated cost burden to respondents is $70,464. (1,200 hours/2,080 hours per year times $122,137 per year average per employee = $70,464). The cost per respondent is $176 (rounded off).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities, which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7147 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–25–001]

Copiah Storage, LLC; Notice of Application

April 9, 2007.

Take notice that on March 29, 2007, as supplemented on April 5, 2007, Copiah Storage, LLC (Copiah), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in Docket No. CP02–25–001, pursuant to section 7(c) of the Natural Gas Act and the Commission's regulations, an amendment to the certificate of public convenience and necessity issued to Copiah on June 13, 2002 in Docket No. CP02–25–000. Copiah requests authorization to develop two new salt dome storage caverns totaling approximately 15.5 Bcf working gas capacity; construct a new 32,000 hp compressor station; construct freshwater supply wells and brine water disposal wells; construct approximately 15 miles of 24-inch diameter header which will connect the Copiah facilities to Texas Eastern Transmission, LP's pipeline system and to the proposed Southeast Supply Header pipeline; implement the proposed tariff; and continue the previous certificate authorization to charge market-based rates for storage and hub services. The expanded facilities will create a maximum total new storage capacity of 15.5 Bcf with a maximum additional daily withdrawal rate of 1.3 MMcf/d; all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copiah requested that the Commission issue an order granting an amendment to its certificate of public convenience and necessity by December 31, 2008 with authorization to construct through 2014.

These filings are available for review at the Commission's Washington, DC offices or may be viewed on the Commission's Web site at http://www.ferc.gov/ using the ''e-Library'' 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 telephone: 202–502–6652; Toll-free: 1–866–208–3676; or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Ashley Leder, Director, Certificates and Reporting, Copiah Storage, LLC, 5400 Westheimer Court, Houston, Texas 77251 at (713) 627–5760 or fax (713) 627–5947.

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 proceeding for this project should 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) by the comment date, below. 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 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 and/or associated pipeline. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 285.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-filing'' link. The Commission strongly encourages electronic filings.

Comment Date: April 30, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7145 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–36–026]

Dauphin Island Gathering Partners; Notice of Negotiated Rate

April 10, 2007.

Take notice that on April 5, 2007, Dauphin Island Gathering Partners (Dauphin Island) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed below to become effective May 6, 2007:

Thirty-Second Revised Sheet No. 9
Twenty-Sixth Revised Sheet No. 10

Dauphin Island states that this tariff sheet reflects changes to its statement of negotiated rates tariff sheets.

Dauphin Island states that copies of the filing are being served contemporaneously on its customers and other interested parties.

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 online 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7164 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–81–032]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Compliance Filing

April 10, 2007.

Take notice that on April 5, 2007 Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1–A, the following tariff sheet, to be effective April 6, 2007:

Eighth Revised Sheet No. 4G.01
Fourth Revised Sheet No. 4K
First Revised Sheet No. 4K.01
First Revised Sheet No. 4K.02

KMIGT states that the tariff sheets are being filed in compliance with the Commission's December 31, 1996 ''Order Accepting Tariff Filing Subject to Conditions'' in Docket No. RP97–81 (77 FERC ¶ 61,350) and the Commission's Letter Orders dated March 28, 1997 and November 30, 2000 in Docket Nos. RP97–81–001 and RP01–70–000, respectively.

KMIGT states that a copy of this filing has been served upon all parties to this proceeding, KMIGT's customers and affected state commissions.

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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7170 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–393–000]

Natural Gas Pipeline Company of America; Notice of Refund Report

April 10, 2007.

Take notice that on April 5, 2007, Natural Gas Pipeline Company of America (Natural) filed its Refund Report regarding the penalty revenues for the period July 1, 2006 through December 31, 2006 that it refunded to its customers pursuant to Section 12.8 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff, Sixth Revised Volume No. 1.

Natural states that the purpose of this filing is to inform the Commission of its refund to customers of penalty revenues pursuant to Section 12.8 of Natural's GT&C.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

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 online 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.

Intervention and Protest Date: 5 p.m. Eastern Time April 17, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7167 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–133]

Natural Gas Pipeline Company of America; Notice of Tariff Filing and Negotiated Rate

April 10, 2007.

Take notice that on March 30, 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 May 1, 2007:

Second Revised Sheet No. 26M

Original Sheet No. 414A.08

Natural also tendered for filing the related Transportation Rate Schedule FTS Agreement with a Negotiated Rate Exhibit (Agreement).

Natural states that the purpose of this filing is to remove reference to a former negotiated rate arrangement that has expired and to implement a new negotiated rate arrangement entered into by Natural and Laclede Energy Resources, Inc. under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of its Tariff. The Agreement also contains non-conforming tariff provisions and is listed on Sheet No. 414A.08, which identifies Natural's non-conforming agreements.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

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 online 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7171 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2281–011]

Pacific Gas and Electric Company; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

April 10, 2007.

Take notice that the following transmission line only project application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License for Transmission Line Only Project.

b. *Project No:* P–2281–011.

c. *Date Filed:* March 30, 2007.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Woodleaf-Kanaka Junction Transmission Line Project.

f. *Location:* The project is located in Butte County California, within the South Fork Feather River watershed. The project is not located within any designated cities, towns, subdivisions or Indian reservations. The project is located about 15 miles east of Oroville, California. The project affects 31.79 acres of federal lands that is administered by the Plumas National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Forrest Sullivan, Senior Project Manger, Pacific Gas & Electric Company, 5555 Florin-Perkins Road, Building 500, Sacramento, CA 95826. Tel: (916) 386–5580.

i. *FERC Contact:* John Mudre, (202) 502–8902, or *john.mudre@ferc.gov*.

j. *Cooperating Agencies:* 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 such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. *Study Request:* Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for Filing Requests for Cooperating Agency Status and Additional Study Requests: May 29, 2007.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests and requests for cooperating agency status 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.

m. *Status:* This application has not been accepted for filing and is not ready for environmental analysis. We are not soliciting motions to intervene, protests, or final terms and conditions at this time.

n. *Project Description:* The Woodleaf-Kanaka Junction Transmission Line Project is a transmission line only project that transmits electricity 6.2 miles from the Woodleaf Powerhouse (owned and operated by the South Feather Water and Power Agency under FERC Project No. 2088) to the Kanaka Junction. The Project also includes a 0.02-mile long tap line extending to Forbestown Powerhouse (also under FERC Project No. 2088). The Woodleaf-Kanaka Junction Transmission Line is composed of a single-circuit, 115-kV transmission line, supported primarily on wood-pole, H-frame towers within a 75-foot wide right-of-way. The project is linked to the Licensee's Sly Creek Transmission Line (FERC License No. 4851), via the Woodleaf Powerhouse Switchyard, a component of FERC Project No. 2088.

o. *Application Availability:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Consultation:* With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at § 800.4.

q. *Procedural Schedule and Final Amendments:* The application will be processed according to the following Transmission Line Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency or Acceptance letter: May 2007.

Issue Scoping Document for comments: June 2007.

Hold Scoping Meetings/Site Visit: June 2007.

Request Additional Information, if needed: July 2007.

Notice of application ready for environmental analysis: August 2007

Notice of the availability of the EA: February 2008.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7160 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4851–005]

Pacific Gas and Electric Company; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

April 10, 2007.

Take notice that the following transmission line only project application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License for Transmission Line Only Project.

b. *Project No.:* P–4851–005.

c. *Date Filed:* March 30, 2007.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Sly Creek Transmission Line Project.

f. *Location:* The Sly Creek Transmission Line Project is located in the Sierra Nevada Range, Butte County, California. The project is located about 15 miles east of Oroville, California and is not located within any designated cities, towns, subdivisions or Indian reservations. The project affects less than 2 acres of federal lands administered by the Plumas National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Forrest Sullivan, Project Manager, Pacific Gas and Electric Company, 5555 Florin-Perkins Road, Building 500, Sacramento, CA, 95826. Tel: (916) 386–5580.

i. *FERC Contact:* John Mudre, (202) 502–8902, or *john.mudre@ferc.gov*.

j. *Cooperating Agencies:* 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 such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. *Study Request Deadline:* Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing requests for cooperating agency status and additional study requests:* May 29, 2007.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests and requests for cooperating agency status 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.

m. *Status:* This application has not been accepted for filing and is not ready for environmental analysis. We are not soliciting motions to intervene, protests, or final terms and conditions at this time.

n. *Project Description:* The Sly Creek Transmission Line Project is a constructed transmission line only project that transmits electricity 5.4 miles from the Sly Creek Powerhouse (owned and operated by the South Feather Water and Power Agency under FERC Project No. 2088) to Pacific Gas and Electric Company's Woodleaf-Kanaka Junction Transmission Line Project (FERC Project No. 2281). The Sly Creek Powerhouse is a component of the South Feather Power Project which is a water supply/power project constructed in the late 1950s/early 1960s. The transmission line project consists of an existing single-circuit, 115 kV transmission line, supported primarily on wood-pole, H-frame structures within a 75-foot right-of-way, and appurtenant facilities.

o. *Application Availability:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Consultation:* With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at § 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency or Acceptance letter: May 2007.

Issue Scoping Document for comments: June 2007.

Hold Scoping Meetings/Site Visit: June 2007.

Request Additional Information, if needed: July 2007.

Notice of application ready for environmental analysis: August 2007.

Notice of the availability of the EA: February 2008.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7162 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 606–000]

Pacific Gas and Electric Company (PG&E); Notice of Authorization for Continued Project Operation

April 10, 2007.

On March 23, 2007, the Pacific Gas and Electric Company, licensee for the Kilarc-Cow Creek Hydroelectric Project, filed a Proposed License Surrender Application Schedule. The Kilarc-Cow Creek Project is located on the Old Cow Creek and South Cow Creek in Shasta County, California.

The license for Project No. 606 was issued for a period ending March 27, 2007. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA.

Notice is hereby given that an annual license for Project No. 606 is issued to the Pacific Gas and Electric Company for a period effective April 2, 2007 through March 31, 2008, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before March 31, 2008, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the

Commission, unless the Commission orders otherwise.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7163 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–394–000]

Panther Interstate Pipeline Energy, LLC; Notice of Cost and Revenue Study

April 10, 2007.

Take notice that on April 2, 2007, Panther Interstate Pipeline Energy, LLC, (Panther Interstate) tendered for filing its cost and revenue study in compliance with the Commission order issued on December 24, 2003 in this docket. Panther Interstate states that the cost and revenue study follows the Commission's regulations at 18 CFR 154.313 and is based on the twelve months ending 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 online 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.

Intervention and Protest Date: 5 p.m. Eastern Time April 17, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7168 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–339–000]

Texas Gas Transmission, LLC; Notice of Technical Conference

April 10, 2007.

The Commission's Order issued March 29, 2007,[1] directed that a technical conference be held to investigate all aspects of Texas Gas Transmission, LLC's proposal to amend its tariff with respect to the capacity allocation method for its supply laterals.

Take notice that a technical conference will be held on Tuesday, April 17, 2007 at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Jacob Silverman at (202) 502–8445 or e-mail *Jacob silverman@ferc.gov.*

All interested parties and staff are permitted to attend.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7166 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

[1] Texas Gas Transmission, LLC, 118 FERC ¶ 61,259 (2007).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–178–001]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

April 10, 2007.

Take notice that, on March 28, 2007, Transcontinental Gas Pipe Line Corporation (Transco) submitted a compliance filing pursuant to the Commission's Order Accepting Tariff Sheets Subject to Conditions issued on March 22, 2007 in Docket No. RP07–178–000.

Transco states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

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 online 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7165 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–395–000]

NSTAR Gas Company; Complainant, v. Algonquin Gas Transmission, LLC; Respondents; Notice of Complaint

April 10, 2007.

Take notice that on April 9, 2007, pursuant to Rule 206 of the Rules and Practice and Procedure and sections 4 and 5 of the Natural Gas Act, NSTAR Gas Company (Complainant) filed a formal complaint against Algonquin Gas Transmission (respondent) alleging an anticipatory breach of contract arising from the respondent's threat to totally curtail service through the J–2 portion of its integrated pipeline system for a signification duration.

The Complainant states that a copy of the complaint has been served upon the respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 30, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7169 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

April 10, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–45–000.

Applicants: Glacial Ridge Wind Power, LLC.

Description: Glacial Ridge Wind Power, LLC submits an Notice of Exempt Wholesale Status filing.

Filed Date: 04/04/2007.

Accession Number: 20070404–5058.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 25, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER94–389–026; ER02–2509–005; ER00–840–006; ER01–137–004; ER98–1767–009; ER99–2992–006; ER99–3165–006; ER02–1942–005; ER01–596–004; ER01–2690–008; ER02–77–008; ER00–1780–006; ER99–415–013; ER01–389–006; ER01–2641–010; ER01–558–009; ER01–557–009; ER01–560–009; ER01–559–009; ER02–24–008; ER02–26–007; ER02–25–007.

Applicants: Tenaska Power Services Co.; Kiowa Power Partners, LLC; Tenaska Alabama Partners, L.P.; Tenaska Alabama II Partners, L.P.; Tenaska Frontier Parnters, Ltd.; Tenaska Gateway Partners, Ltd.; Tenaska Georgia Partners, L.P.; Alabama Electric Marketing, LLC; California Electric Marketing, LLC; New Mexico Electric Marketing, LLC; Texas Electric Marketing, LLC; Commonwealth Chesapeake Company, LLC; Calumet Energy Team, LLC; High Desert Power Project, LLC; Holland Energy, LLC; University Park Energy, LLC; Big Sandy Peaker Plant, LLC; Wolf Hills Energy, LLC; Armstrong Energy Limited Partnership, LLP; Pleasants Energy, LLC; Troy Energy, LLC.

Description: Tenaska Power Services Co., Kiowa Power Partners, et al. submit a notice of change in status.

Filed Date: 04/04/2007.

Accession Number: 20070409–0096.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 25, 2007.

Docket Numbers: ER98–411–014.

Applicants: Wolverine Power Supply Cooperative, Inc.

Description: Wolverine Power Supply Cooperative, Inc. submits an amendment to Tariff Revisions in the 2/26/07 Triennial Market Power Analysis Update.

Filed Date: 03/08/2007.

Accession Number: 20070314–0294.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 17, 2007.

Docket Numbers: ER04–157–019; ER04–714–009.

Applicants: Fitchburg Gas & Electric Light Company.

Description: Refund Report of Fitchburg Gas & Electric Light Company.

Filed Date: 04/09/2007.

Accession Number: 20070409–5041.

Comment Date: 5 p.m. Eastern Time on Monday, April 30, 2007.

Docket Number: ER05–463–004.

Applicants: Mendota Hills, LLC.

Description: Notice of Non-Material Change in Status of Mendota Hills, LLC.

Filed Date: 04/09/2007.

Accession Number: 20070409–5033.

Comment Date: 5 p.m. Eastern Time on Monday, April 30, 2007.

Docket Numbers: ER06–451–021; ER06–1467–003.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool Inc. submits its compliance filing containing its entire currently Open Access Transmission Tariff, to become effective 2/1/07.

Filed Date: 04/02/2007.

Accession Number: 20070406–0127.

Comment Date: 5 p.m. Eastern Time on Monday, April 23, 2007.

Docket Numbers: ER06–1420–003.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc.'s response to FERC's 3/6/07 letter order seeking additional information with respect to transmission and deliverability studies, etc.

Filed Date: 04/05/2007.

Accession Number: 20070410–0187.

Comment Date: 5 p.m. Eastern Time on Thursday, April 26, 2007.

Docket Numbers: ER07–59–003.

Applicants: Fortis Energy Marketing & Trading GP.

Description: Fortis Energy Marketing and Trading GP submits notice of non-material change in status.

Filed Date: 04/04/2007.

Accession Number: 20070409–0097.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 25, 2007.

Docket Numbers: ER07–232–002.

Applicants: Aragonne Wind LLC.
Description: Notice of Non-Material Change in Status of Aragonne Wind, LLC.
Filed Date: 04/09/2007.
Accession Number: 20070409–5028
Comment Date: 5 p.m. Eastern Time on Monday, April 30, 2007.

Docket Numbers: ER07–374–002.
Applicants: Buena Vista Energy, LLC.
Description: Notice of Non-Material Change in Status of Buena Vista Energy, LLC.
Filed Date: 04/09/2007.
Accession Number: 20070409–5027.
Comment Date: 5 p.m. Eastern Time on Monday, April 30, 2007.

Docket Numbers: ER07–489–002.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits the Tohono O'Odham Utility Authority EEI Mastor Power Purchase and Sale Agreement under FERC Electric Tariff, Volume 5 to conform to Order 614.
Filed Date: 04/05/2007.
Accession Number: 20070406–0121.
Comment Date: 5 p.m. Eastern Time on Thursday, April 26, 2007.

Docket Numbers: ER07–585–001.
Applicants: Niagara Generation, LLC.
Description: Niagara Generation, LLC submits the revised market-based rate tariff to replace the rate tariff that was filed w/FERC on 3/2/07 in connection with its notice of succession.
Filed Date: 04/04/2007.
Accession Number: 20070409–0099.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 25, 2007.

Docket Numbers: ER07–594–000.
Applicants: Pirin Solutions, Inc.
Description: Pirin Solutions, Inc submits comments re the pending application for market based rate authority etc.
Filed Date: 04/04/2007.
Accession Number: 20070404–5029.
Comment Date: 5 p.m. Eastern Time on Monday, April 16, 2007.

Docket Numbers: ER07–672–000.
Applicants: Central Hudson Gas & Electric Corp.
Description: Central Hudson Gas & Electric Corp submits Substitute Original Service Agreement 922 with City of New York, dated as of 10/31/06.
Filed Date: 03/27/2007.
Accession Number: 20070405–0208.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 17, 2007.

Docket Numbers: ER07–675–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection LLC submits an executed interconnection service agreement among PJM, Allegheny Ridge Wind Farm LLC et al and a notice of cancellation for an interconnection service agreement etc.
Filed Date: 03/29/2007.
Accession Number: 20070402–0038.
Comment Date: 5 p.m. Eastern Time on Thursday, April 19, 2007.

Docket Numbers: ER07–694–000.
Applicants: New England Power Company.
Description: New England Power Co.'s amendments to Integrated Facilities Agreement under Schedule III–B of FERC Electric, Original Volume 1 which provides transmission credits to Narragansett Electric Co.
Filed Date: 03/30/2007.
Accession Number: 20070406–0105.
Comment Date: 5 p.m. Eastern Time on Friday, April 20, 2007.

Docket Numbers: ER07–698–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits a Special Facilities Agreement for the Interconnection of the Trans Bay Project etc between PG&E and Trans Bay Cable LLC.
Filed Date: 04/03/2007.
Accession Number: 20070405–0209.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 24, 2007.

Docket Numbers: ER07–711–000.
Applicants: Cleco Power LLC.
Description: Cleco Power, LLC submits revisions to its Open Access Transmission Tariff to adopt the North American Electric Reliability Council transmission line loading relief pursuant to FERC's 11/30/06 Order.
Filed Date: 04/04/2007.
Accession Number: 20070409–0098.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 25, 2007.

Docket Numbers: ER07–712–000.
Applicants: Entegra North America, L.P.
Description: Entegra North America seeks to cancel its FERC Electric Tariff, Rate Schedule 1 including authority to sell electricity at market based rates etc.
Filed Date: 04/04/2007.
Accession Number: 20070405–0216.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 25, 2007.

Docket Numbers: ER07–713–000.
Applicants: Florida Power & Light Company.
Description: Florida Power & Light Company submits Second Revised Sheet 505 of its Open Access Transmission Tariff etc.
Filed Date: 04/05/2007.
Accession Number: 20070406–0120.
Comment Date: 5 p.m. Eastern Time on Thursday, April 26, 2007.

Docket Numbers: ER07–715–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits a Letter of Clarification regarding certain terms and conditions of two agreements entered into with PacifiCorp.
Filed Date: 04/05/2007.
Accession Number: 20070410–0162.
Comment Date: 5 p.m. Eastern Time on Thursday, April 26, 2007.

Docket Numbers: ER07–716–000.
Applicants: Mid Continent Area Power Pool.
Description: Mid-Continent Area Power Pool submits notice that MAPP Schedule F adopts the NERC's revised TLR procedures pursuant to FERC's 11/30/06 Order.
Filed Date: 04/05/2007.
Accession Number: 20070410–0168.
Comment Date: 5 p.m. Eastern Time on Thursday, April 26, 2007.
Docket Numbers: ER07–720–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc submits revisions to its Market Administration and Control Area Services Tariff and its OATT and on 4/6/07 submit an affidavit with an original signature.
Filed Date: 04/05/2007; 04/06/2007.
Accession Number: 20070410–0167.
Comment Date: 5 p.m. Eastern Time on Thursday, April 26, 2007.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES07–30–000.
Applicants: MidAmerican Energy Company.
Description: Application of MidAmerican Energy Co for Authorization to Issue and Sell up to $750 Million of Bonds, Notes, Debentures, Guarantees or Other Evidences, of Long-Term Indebtedness.
Filed Date: 04/06/2007.
Accession Number: 20070406–5060.
Comment Date: 5 p.m. Eastern Time on Friday, April 27, 2007.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC07–30–000.
Applicants: Calpine Power L.P., Calpine Island Cogeneration Limited Partnership.
Description: Self-Certification of Foreign Utility Company Status of Calpine Power L.P. and Calpine Island Cogeneration Limited Partnership.
Filed Date: 04/05/2007.
Accession Number: 20070405–5026.
Comment Date: 5 p.m. Eastern Time on Thursday, April 26, 2007.

Docket Numbers: FC07–31–000.

Applicants: Marianas Energy Company, LLC.

Description: Marianas Energy Company, LLC an indirect subsidiary of Osaka Gas Energy America Corporation submits notification of self-certification of foreign utility company status.

Filed Date: 04/06/2007.

Accession Number: 20070410–0161.

Comment Date: 5 p.m. Eastern Time on Friday, April 27, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7113 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1051–012 Alaska]

Alaska Power & Telephone Company; Notice of Availability of Environmental Assessment

April 10, 2007.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a subsequent license for the existing Skagway-Dewey Lakes Hydroelectric Project and has prepared an Environmental Assessment (EA) for the project. The 943-kilowatt (kW) project is located on Pullen, Dewey, Reid, Icy, and Snyder Creeks in Skagway, southeastern Alaska. The project does not occupy any federal lands. The project generates an average of about 3,500,000 kilowatthours (kWh) of energy annually. AP&T proposes no new capacity and no new construction.

The EA contains the staff's analysis of the potential environmental effects of the proposed project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)–208–3676; for TTY contact (202) 502–8659.

Any comments on the EA should be filed within 30 days from the date of this notice and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix ''Skagway-Dewey Lakes Hydroelectric Project No. 1051–012'' to all comments. Comments may be filed electronically via 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 under the ''e-Filing'' link. For further information, contact Shana Murray at (202) 502–8333 or by e-mail at *shana.murray@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7158 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–88–000]

Egan Hub Storage, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Egan Fourth Cavern Project and Request for Comments on Environmental Issues

April 9, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Egan Fourth Cavern Project, involving construction and operation of facilities by Egan Hub Gas Storage, LLC (Egan Hub) in Acadia and Evangeline Parishes, Louisiana. The EA will be used by the Commission in its decision-making process to determine whether or not to authorize the project.

This notice announces the opening of the scoping period that will be used to gather environmental input from the public and interested agencies on the project. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on May 9, 2007.

An effort is being made to send this notice to all individuals, organizations, Native American Tribes, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. We[1] encourage government representatives to notify their constituents of this planned

[1] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Egan Hub proposes to expand its existing storage facility in Acadia and Evangeline Parishes, Louisiana. The project would involve constructing a new salt dome storage cavern and a 16.5-mile-long, 24-inch-diameter looping pipeline, along with other appurtenant facilities, to connect the Egan Gas Storage Facility with an existing Texas Gas Transmission Corporation pipeline. The proposed storage cavern would have a capacity of 10.5 Bcf (8.0 Bcf working gas), and increase Egan Hub's total storage capacity to 42 Bcf (32 Bcf working gas).[2]

The general location of Egan Hub's proposed facilities is shown in appendix 1.[3]

Land Requirements for Construction

Construction of the proposed Egan Fourth Cavern Project would affect a total of about 248.3 acres of land. Following construction, about 134.2 acres of land would be allowed to revert to its previous conditions. Disturbance associated with aboveground facilities would comprise about 4.7 acres of permanently affected land.

For the associated 24-inch-diameter pipeline, an 85-foot-wide construction right-of-way (ROW) is proposed in upland areas and a 75-foot-wide construction ROW is proposed in upland forested and wetland areas. Egan Hub would maintain a 50-foot-wide permanent ROW for operation and maintenance of the proposed facilities.

The EA Process

We are preparing the EA to comply with the National Environmental Policy Act (NEPA) which requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice, we are requesting public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies; public interest groups; interested individuals; affected landowners; newspapers and libraries in the project area; and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EA and considered by the Commission. Your comments should focus on the potential environmental effects of the proposal, reasonable alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 1;
- Reference Docket No. CP07–88–000;
- Mail your comments so that they will be received in Washington, DC on or before May 9, 2007.

Please note that the Commission strongly encourages electronic filing of comments. See 18 Code of Federal Regulations (CFR) 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's e-Filing system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor, you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://*

[2] Egan Hub's application in Docket No. CP07–88–000 was filed with the Commission under Section 7 of the Natural Gas Act.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than appendix 1 (map), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

www.ferc.gov). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' (*i.e.*, CP07–88–000), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ ferc.gov.* The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7146 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2088–068]

South Feather Water and Power Agency; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

April 9, 2007.

Take notice that the following hydroelectric Application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P–2088–068.

c. *Date Filed:* March 26, 2007.

d. *Applicant:* South Feather Water and Power Agency.

e. *Name of Project:* South Feather Power Project.

f. *Location:* On the South Fork Feather River (SFFR), Lost Creek and Slate Creek in Butte, Yuba and Plumas counties, California. The project affects 1,977.12 acres of federal lands administered by the Plumas National Forest and 10.57 acres of federal land administered by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Michael Glaze, General Manager, South Feather Water and Power Agency, 2310 Oro-Quincy Highway, Oroville, CA 95966, (530) 533–4578

i. *FERC Contact:* John Mudre, (202) 502–8902, or *john.mudre@ferc.gov.*

j. *Cooperating Agencies:* 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 such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing requests for cooperating agency status and additional study requests:* May 25, 2007.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests and requests for cooperating agency status 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.

m. This application has not been accepted for filing and is not ready for environmental analysis. We are not soliciting motions to intervene, protests, or final terms and conditions at this time.

n. The South Feather Power Project is a water supply/power project constructed in the late 1950s/early 1960s. The Project is composed of four developments: Sly Creek, Woodleaf, Forbestown and Kelly Ridge, each of which is described below. The Project can store about 172,000 acre-feet (af) of water (gross storage) and has generated an average of about 514.1 gigawatt hours (gWh) of power annually for the past 20 years, since the addition of Sly Creek Powerhouse.

The Sly Creek Development includes: (1) *Little Grass Valley Dam*—a 210-foot-high, 840-foot-long, rock filled dam on the SFFR with a crest elevation of 5,052 feet (all elevations are in National Geodetic Vertical Datum, or NGVD, unless otherwise specified) and with a 180-foot-long spillway controlled by two 14-feet-high by 40-feet-long steel radial gates that forms a 89,804 acre-foot (af) storage reservoir covering 1,650 acres at a maximum water surface (flood level) elevation of 5,047 feet with the spill gates closed; (2) *South Fork Diversion Dam*—a 60-foot-high, 167-foot-long, concrete overflow arch dam on the SFFR with a crest elevation of 3,557 to 3,559 feet and with four uncontrolled overflow spillway sections that forms an 87 af diversion impoundment covering about 9 acres at a normal maximum water surface elevation of 3,557 feet; (3) *South Fork Diversion Tunnel*—a 14,256-foot-long, 11-foot-diameter concrete lined and unlined horseshoe un-pressurized tunnel controlled by two 6-foot-high by 4-foot-long electric hoist slide gates that diverts up to 600 cubic feet per second (cfs) of water from the South Fork Diversion Dam to Sly Creek Reservoir; (4) *Slate Creek Diversion Dam*—a 62-foot-high, 223.5-foot-long, concrete overflow arch dam on Slate Creek with a crest elevation of 3,552 to 3,554 feet and with three uncontrolled overflow spillway sections that forms a negligible diversion impoundment due to sediment accumulation; (5) *Slate Creek Diversion Tunnel*—a 13,200-foot-long, 11-foot-diameter, concrete lined and unlined horseshoe un-pressurized tunnel controlled by two 8-foot-high by 6-foot-long manual slide gates that diverts up to a maximum flow capacity of 848 cfs of water (though water rights limit flows to 600 cfs and at times flows are limited to 500 cfs due to high storage volume in the receiving reservoir) from the Slate Creek Diversion Dam to Sly Creek Reservoir; (6) *Sly Creek Dam*—a 289-foot-high, 1,200-foot-long, zoned earth-filled dam on Lost Creek with a crest elevation of 3,536 feet and with a 649-foot-long spillway controlled by one 16-foot-high by 54-foot-long steel radial gate that forms a 64,338 af storage reservoir covering 619 acres at a maximum water surface (flood level) elevation of 3,531 feet with the spill gates closed; (7) *Sly Creek Penstock*—a 1,100-foot-long, 90-inch-inside-diameter, steel penstock enclosed in the

former outlet tunnel that delivers water to Sly Creek Powerhouse; (8) *Sly Creek Powerhouse*—a semi-outdoor, reinforced concrete, above ground powerhouse that releases water to Lost Creek Reservoir and that contains one reaction turbine rated at 17,690 horsepower (hp) directly connected to a 13,500-kilovolt-amperes (kVA) generator; (9) *Sly Creek Powerhouse Switchyard*—a switchyard adjacent to the Sly Creek Powerhouse that contains one 16,000 kVA transformer. Power generated at Sly Creek Powerhouse is delivered from the switchyard to the grid via Pacific Gas and Electric Company's 115 kilovolt (kV) Sly Creek Tap and Woodleaf-Kanaka Junction transmission line; (10) *Little Grass Valley Reservoir Recreation Facility*—the Little Grass Valley Reservoir Recreation Facility includes Little Beaver, Red Feather, Running Deer, Horse Camp, Wyandotte, Peninsula Tent, Black Rock Tent, Black Rock RV, and Tooms RV campgrounds; Black Rock, Tooms and Maidu Boat Launch areas; Pancake Beach and Blue Water Beach day use areas, Maidu Amphitheater and Little Grass Valley Dam ADA Accessible Fishing trail at Little Grass Valley Reservoir; and (11) *Sly Creek Reservoir Recreation Facility*—the Sly Creek Recreation Facility includes two campgrounds (Strawberry and Sly Creek), Strawberry Car-Top Boat Launch, Mooreville Boat Ramp and Mooreville Day Use Area on Sly Creek Reservoir. The Sly Creek Development does not include any roads except for the portions of the roads within the FERC Project Boundary that cross Little Grass Valley Dam (USFS Road 22N94) and Sly Creek Dam (USFS Road 21N16).

The Woodleaf Development includes: (1) *Lost Creek Dam*—a 122-foot-high, 486-foot-long, concrete overflow arch dam on the Lost Creek with a crest elevation of 3,279.05 feet and with a 251-foot-wide spillway controlled by 4-foot-high by 8-foot-long flashboards that forms a 5,361 af storage reservoir covering 137 acres at a normal maximum water surface elevation of 3,283 feet with the flashboards installed; (2) *Woodleaf Power Tunnel*—an 18,385-foot-long, 12-foot-diameter, concrete lined and unlined horseshoe pressurized tunnel controlled by one 6-foot-high by 12-foot-long electric hoist slide gate that diverts up to 620 cfs of water from Lost Creek Reservoir to the Woodleaf Penstock; (3) *Woodleaf Penstock*—a 3,519-foot-long, 97-inch reducing to 78-inch-inside-diameter, exposed steel penstock that delivers water to Woodleaf Powerhouse; (4) *Woodleaf Powerhouse*—a semi-outdoor, reinforced concrete, above ground powerhouse that releases water to the Forbestown Diversion Dam impoundment on the SFFR and that contains one 6-jet vertical shaft impulse Pelton turbine rated at 80,000 hp directly connected to a 65,500 kVA generator; and (5) *Woodleaf Powerhouse Switchyard*—a switchyard adjacent to the Woodleaf Powerhouse that contains one 70,000 kVA transformer. Power generated at Woodleaf Powerhouse is delivered from the switchyard to the grid via Pacific Gas and Electric Company's 115 kV Woodleaf-Kanaka Junction transmission line. The Woodleaf Development does not include any recreation facilities or roads.

The Forbestown Development includes: (1) *Forbestown Diversion Dam*—a 80-foot-high, 256-foot-long, concrete overflow arch dam on the SFFR with a crest elevation of 1,783 feet and with five 46-foot-wide uncontrolled overflow spillway sections with a combined width of approximately 240 feet that forms a 352 af diversion impoundment covering about 12 acres at a normal maximum water surface elevation of 1,783 feet; (2) *Forbestown Power Tunnel*—a 18,388-foot-long, 12.5-foot by 11-foot-diameter, concrete lined and unlined horseshoe pressurized tunnel that diverts up to 660 cfs of water from the Forbestown Diversion impoundment to the Forbestown Penstock; (3) *Forbestown Penstock*—a 1,487-foot-long, 97-inch reducing to 83-inch-inside-diameter exposed steel penstock that delivers water to Forbestown Powerhouse; (4) *Forbestown Powerhouse*—a semi-outdoor reinforced concrete above ground powerhouse that releases water to Ponderosa Reservoir on the SFFR and that contains one vertical reaction Francis turbine rated at 54,500 hp directly connected to a 40,500 kVA generator; and (5) *Forbestown Powerhouse Switchyard*—a switchyard adjacent to the Forbestown Powerhouse that contains one 35,200 kVA transformer. Power generated at Forbestown Powerhouse is delivered from the switchyard to the grid via Pacific Gas and Electric Company's 115 kV Woodleaf-Kanaka Junction transmission line. The Forbestown Development does not include any recreation facilities or roads.

The Kelly Ridge Development includes: (1) *Ponderosa Dam*—a 160-foot-high, 650-foot-long, earth-filled dam that releases water into the 3.6 million af Lake Oroville (part of the California Department of Water Resources' Feather River Project, FERC Project No. 2100) with a crest elevation of 985 feet and with a 352-foot-long spillway controlled by two 7 foot 7.5-inch-high by 51 feet-long steel gates that forms a 4,178 af storage reservoir covering 103 acres at a normal maximum water surface elevation of 960 feet; (2) *Ponderosa Diversion Tunnel*—a 516-foot-long, 10-foot by 9-foot-diameter concrete lined and unlined horseshoe unpressurized tunnel controlled by one 6-foot-high by 8-foot-long hydraulic gate that diverts up to 300 cfs of water from Ponderosa Reservoir to Miners Ranch Conduit; (3) *Miners Ranch Conduit*—a 32,254-foot-long, 10-foot-wide concrete or gunite-lined canal and concrete or bench flume that includes two siphon sections across the McCabe and Powell creek sections of Lake Oroville and that diverts water from the Ponderosa Diversion Tunnel to the Miners Ranch Tunnel; (4) *Miners Ranch Tunnel*—a 23,946-foot-long, 10-foot by 9-foot-diameter, concrete lined horseshoe un-pressurized tunnel that diverts up to 300 cfs of water from the Miners Ranch Conduit to Miners Ranch Reservoir; (5) *Miners Ranch Dam*—a 55-foot-high, 1,650-foot-long, earth-filled off-stream dam with a crest elevation of 895 feet and with an 1,175-foot-long uncontrolled spillway that forms a 896 af storage reservoir covering 48 acres at a normal maximum water surface elevation of 890 feet; (6) *Kelly Ridge Power Tunnel*—a 6,736-foot-long, 9-foot by 8-foot-diameter, pressurized tunnel controlled by one 4-foot-high by 8-foot-long fixed wheel gate that diverts up to 260 cfs of water from Miners Ranch Reservoir to Kelly Ridge Penstock: (7) *Kelly Ridge Penstock*—a 6,064-foot-long 69-inch reducing to 57-inch-inside-diameter, exposed steel penstock that delivers water to Kelly Ridge Powerhouse; (8) *Kelly Ridge Powerhouse*—a semi-outdoor reinforced concrete above ground powerhouse that releases water to CDWR Feather River Project's Thermalito Diversion Pool downstream of Oroville Dam and that contains one vertical reaction Francis turbine rated at 13,000 hp directly connected to a 11,000 kVA generator; and (5) *Kelly Ridge Powerhouse Switchyard*—a switchyard adjacent to the Kelly Ridge Powerhouse that contains one 11,000 kVA transformer. Power generated at the Kelly Ridge Powerhouse is delivered from the switchyard to the grid via Pacific Gas and Electric Company's 60 kV Kelly Ridge-Elgin Junction transmission line. The Kelly Ridge Development does not include any recreation facilities or roads.

o. A copy of the application is available for review at the Commission

in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at § 800.4.

q. Procedural schedule and final amendments: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance or Deficiency Letter: May 2007.

Request Additional Information: May 2007,

Issue Scoping Document: June 2007.

Hold Scoping Meetings/Site Visit: June 2007.

Issue Scoping Document 2: July 2007.

Notice of application is ready for environmental analysis: August 2007.

Notice of the availability of the draft NEPA document: February 2008.

Initiate 10(j) process: April 2008.

Notice of the availability of the final NEPA document: August 2008.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7148 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

April 10, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12786–000.

c. *Date Filed:* March 13, 2007.

d. *Applicant:* Fishtrap Partners, LLC.

e. *Name of Project:* Fishtrap Hydroelectric Project.

f. *Location:* The project would be located at the U.S. Army Corps of Engineers' existing Fishtrap Dam, on the Levisa Fork, Big Sandy River, in Pike County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. James B. Price, PhD, President, W.V. Hydro, Inc., P.O. Box 5550, Aiken, SC 29804, (803) 642–2749.

i. *FERC Contact:* Etta Foster, (202) 502–8769.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the U.S. Army Corps of Engineers' Fishtrap Dam, reservoir and all appurtenant facilities. The project would consist of: (1) A proposed powerhouse containing one turbine and generator with a total capacity of 5,000 kW; (2) a proposed penstock to be installed in the existing outlet tunnel; (3) a switchyard connected to a transmission line of the local utility, and (4) a new 23-kV transmission line. The project would have an estimated average annual generation of 19 gigawatt-hours.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'',''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7159 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2621–004]

Milliken and Company, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

April 10, 2007.

a. *Project No.:* 2621–004.

b. *Date Filed:* January 30, 2007.

c. *Submitted by:* Milliken and Company, Inc.

d. *Name of Project:* Pacolet River Hydroelectric Project.

e. *Location:* The project is located on the Pacolet River, in Spartanburg County, South Carolina.

f. *Filed Pursuant to:* 18 CFR 5.5 and 5.6 of the Commission's regulations.

g. *Potential Applicant Contact:* Mr. Bryan Stone, Business Manager, Lockhart Power Company, P.O. Box 10, 420 River Street, Lockhart, South Carolina 29364, (800) 368–1289.

h. *FERC Contact:* Lee Emery at (202) 502–8379; or e-mail at *lee.emery@ferc.gov*.

i. Pursuant to 18 CFR 5.3(a)(2), Milliken and Company, Inc. filed its Notice of Intent to File License Application using the Traditional Licensing Process on January 30, 2007. With this notice, the Director of the Office of Energy Projects, approves Milliken and Company, Inc. request to use the Traditional Licensing Process.

j. 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 consultation thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the South Carolina Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

k. With this notice, we are designating Milliken and Company, Inc., as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

l. Milliken and Company, Inc. filed a Pre-Application Document (PAD) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2197. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 31, 2010.

n. A copy of the PAD is 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, or for TTY, at (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

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.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–7161 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD07–11–000]

Demand Response in Wholesale Markets; Supplemental Notice

April 6, 2007.

As announced in the Notice of Technical Conference on Demand Response in Wholesale Markets issued on February 16, 2007,[1] the Federal Energy Regulatory Commission will hold a technical conference on Monday, April 23, 2007 on integrating demand response in wholesale markets, including items previously set for conference in a Commission order.[2] The technical conference will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission,

[1] 72 FR 8378 (Feb. 26, 2007).

[2] PJM Interconnection, L.L.C., FERC ¶ 61,218, at P 45 (2006).

888 First Street, NE., Washington, DC 20426, from 9 a.m. to 5 p.m. Eastern time. The conference will be open for the public to attend and advance registration is not required. Commissioners may attend the conference.

The agenda for this conference is attached, and contains questions the panelists will be asked to address. If any changes occur, the revised agenda will be posted on the calendar page for this event on the Commission's Web site, *http://www.ferc.gov*, prior to the event. The discussions at this conference might address matters pending in the following proceedings: PJM Interconnection, L.L.C., Docket Nos. ER06–1474; ER07–508; ER05–1410; EL05–148; Cal. Indep. Sys. Operator Corp., Docket No. ER06–615; ISO New England Inc., Docket Nos. ER07–546, ER07–547; Midwest Indep. Sys. Operator, Docket Nos. ER06–1099–000; ER06–1099–001; ER06–1099–002; and ER07–550.

Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript.

A free Webcast of this event will be available through www.ferc.gov. Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its Web cast. The Capitol Connection provides technical support for the Web casts. It also offers access to this event via television in the Washington, DC area and via phone bridge for a fee. Visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at the Capitol Connection 703–993–3100 for information about this service.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For further information on the technical conference, please contact:

David Kathan (Technical Information), Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6404, *David.Kathan@ferc.gov*.

Aileen Roder (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6022, *Aileen.Roder@ferc.gov*.

Philis J. Posey,

Acting Secretary.

[FR Doc. E7–7120 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ZZ07–4–000]

RTO/ISO MMU State of the Markets Reports; Notice of Electronic Filing Guidelines for RTO/ISO Market Monitoring Unit State of the Markets Reports

April 10, 2007.

Take notice that the Commission is issuing guidelines for the submission of the state of the markets reports that may be filed electronically with the Commission by RTO/ISO Market Monitoring Units according to the provisions of their tariff. The Commission has created a special docket number, ZZ07–4–000, under which all of the reports for Fiscal Year 2007, ending September 30, 2007, should be filed.

The Commission's electronic filing system can be accessed on its Web site at: *http://www.ferc.gov/docs-filing/docs-filing.asp*. An eRegistration account is required for all persons logging in to the system and for persons who will be listed as a primary contact or person responsible for the filing. At the present time, only public information can be submitted via the eFiling system. The Commission prefers filings in text-searchable formats.

The electronic filing guidelines attached to this notice will also be available on the Commission's Web site at *http://www.ferc.gov/help/how-to.asp* and updated as necessary.

Kimberly D. Bose,

Secretary.

Electronic Filing Guidelines for RTO/ISO Market Monitoring Unit State of the Markets Reports

The Commission's electronic filing system can be accessed on its Web site at: *http://www.ferc.gov/docs-filing/docs-filing.asp.* A FERC Online eRegistration account is required for all persons logging in to the eFiling system and for persons who will be listed as a primary contact or person responsible for the filing. At the present time, only public information can be submitted via the eFiling system.

The Commission prefers filings in text-searchable formats. Our standard word processing application is MS Word, but the eFiling system can also accept documents in WordPerfect and PDF formats.

1. The header of the document should contain ZZ07–4–000 and the title RTO/ISO Market Monitoring Report.

2. Select the filing type ''Production of Document''.

3. On the Select Docket screen, enter ZZ07–4 in the docket number search block and select ZZ07–4–000 from the search results.

4. Before you browse, select, and attach the file(s) make sure that the file name is less than 25 characters and contains no spaces or special characters. There is a maximum number of 10 files per session and no file should be larger than 10 Mb.

5. On the Submission Description Screen, edit the default description be replacing ''Production of Document: with ''RTO ISO Market Monitoring Report'' or other suitable description.

6. For any amendment or correction to a prior submission add ''Correction to'', ''Supplement to'', or other appropriate indicator to the edited description of the filing.

7. Upon receipt, the eFiling system will send a Confirmation of Receipt email to the e-mail address for the log in account.

RTO/ISO Market Monitoring Report submissions will be stored in eLibrary in the ''Electric'' library with Class = Other Submittal, Type = Other External Submittal, and the docket number ZZ07–4–000.

[FR Doc. E7–7172 Filed 4–13–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0636; FRL–8298–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Pesticide Registration Fee Waivers, EPA ICR Number 2147.03, OMB Control Number 2070–0167

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 an Information Collection Request

(ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPP–2006–0636, to (1) EPA online using www.regulations.gov (our preferred method), by e-mail to *opp.ncic@epa.gov*, or by mail to: OPP Regulatory Public Docket (7502P), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joseph Hogue, Field and External Affairs Division, Office of Pesticide Programs, 7506P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9072; fax number: 703–305–5884; e-mail address: *hogue.joe@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 25, 2006 (71 FR 62431), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments on this ICR during the 60-day comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPP–2006–0636, which is available for online viewing at *www.regulations.gov*, or in person viewing at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the Docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Pesticide Registration Fee Waivers.

ICR Status: This is a request to renew an existing approved collection. This ICR is scheduled to expire on December 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

Abstract: This information collection will allow EPA to process requests for waivers of fees under the Pesticide Registration Improvement Act of 2003 (PRIA). The ICR covers the collection activities associated with requesting a fee waiver and involves requesters submitting a waiver request, information to demonstrate eligibility for the waiver, and certification of eligibility. Waivers are available for small businesses, for minor uses, and for actions solely associated with the Inter-Regional Research Project Number 4 (IR–4). State and federal agencies are exempt from the payment of fees. Information collected will allow EPA to determine whether to grant a waiver of registration fees, according to requirements of PRIA. Responses to the collection of information are required to obtain a fee waiver. Data and/or information submitted to the Agency in conjunction with service fee waiver requests may be claimed as trade secret or commercial or financial information and will be protected from disclosure under FIFRA section 10 and the associated regulation as contained in 40 CFR part 2, subpart B.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 37 hours per response for first-time applicants, 12 hours per response for applicants requesting another fee waiver or reduction within the same fee billing cycle, and 27 hours per response for applicants that have applied for a fee waiver in a prior billing cycle but not in the current billing cycle. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Pesticide registrants that seek a registration fee waiver.

Estimated Number of Respondents: 389.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 8,368.

Estimated Total Annual Labor Cost: $521,903.

Changes in the Estimates: There is a decrease of 2,302 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to the fact that the distribution of responses among the three different response types has been adjusted, with a higher percentage of responses in the lower-burden types. The distribution among response types was estimated in the currently approved ICR, as it was a new requirement, whereas this proposed renewal uses actual values based on experience. This change is an adjustment.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7136 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0616; FRL–8299–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Submission of Unreasonable Adverse Effects Information Under FIFRA Section 6(a)(2); EPA ICR Number 1204.10; OMB Control Number 2070–0039

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 a request to renew an existing Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OPP–2006–0616, both to (1) EPA online using www.regulations.gov (our preferred method), or by mail to: OPP Regulatory Public Docket (7502P), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Field and External Affairs Division, Office of Pesticide Programs, 7506P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–6304; fax number: 703–305–5884; e-mail address: *boyle.kathryn@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 25, 2006 (71 FR 62429), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments on this ICR during the 60-day comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPP–2006–0616, which is available for online viewing at www.regulations.gov, or in person viewing at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

Use EPA's electronic docket and comment system at www.regulations.gov, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the Docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at www.regulations.gov as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to www.regulations.gov.

Title: Submission of Unreasonable Adverse Effects Information Under FIFRA Section 6(a)(2)

ICR Status: This is a request to renew an existing approved collection, which is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

Abstract: Section 6(a)(2) of Federal Insecticide, Fungicide, and Rodenticide Act requires pesticide registrants to submit information to the Agency which may be relevant to the balancing of the risks and benefits of a pesticide product. The statute requires the registrant to submit any factual information that it acquires regarding adverse effects associated with its pesticidal products, and it is up to the Agency to determine whether or not that factual information constitutes an unreasonable adverse effect. Responses to this collection are mandatory. The authority for this information collection is section 6(a)(2) of FIFRA, with regulations codified in 40 CFR part 159. Information submitted to EPA in response to this information collection may be protected from disclosure under FIFRA section 10.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 97.3 hours per registrant (respondent). Under the PRA, burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Pesticide Registrants.

Estimated Number of Respondents: 1,720.

Frequency of Response: As needed.

Estimated Total Annual Hour Burden: 167,316.

Estimated Total Annual Burden Cost: $9,809,591.

Changes in the Estimates: This ICR renewal request reflects an increase of approximately 11,677 burden hours from that which is currently identified in the OMB Inventory of Approved ICR Burdens, to an annual respondent burden of 167,316 hours at a cost of $9,809,591 (in 2006 dollars). The change in burden reflects a number of adjustments. For this renewal ICR, there are now fewer registrants of active products (1,720 versus 1,877) and therefore fewer employees to be trained (17,200 versus 18,770) than reflected in the existing ICR.

Total burden hour estimates associated with studies are reduced because the estimated number of study submissions is reduced from 325 studies to 240. Burden estimates associated with the number of incident reports, however, are increased because of the increased volume of incident reporting (17%). Overall, considering both the decrease in studies and the increase in incidents, the total burden hours increased from 155,639 to 167,316.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7138 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0631; FRL–8298–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Recordkeeping Requirements for Certified Applicators Using 1080 Collars for Livestock Protection; EPA ICR No. 1249.08, OMB Control No. 2070–0074

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPP–2006–0631, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *opp.ncic@epa.gov,* or by mail to: OPP Regulatory Public Docket (7502P), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Nathanael R. Martin, Field and External Affairs Division, Office of Pesticide Programs, 7506P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–6475; fax number: 703–305–5884; e-mail address: *martin.nathanael@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 25, 2006 (71 FR 62434), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one comment on this ICR during the 60-day comment period and addressed them in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPP–2006–0631, which is available for online viewing at *www.regulations.gov,* or in person viewing at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the Docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Recordkeeping Requirements for Certified Applicators Using 1080 Collars for Livestock Protection.

ICR Status: This is a request to renew an existing approved collection. This ICR is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

Abstract: This ICR affects approximately 40 certified pesticide applicators who utilize 1080 toxic collars for livestock protection. Four states (Montana, New Mexico, South Dakota, and Wyoming) monitor the program, and five pesticide registrants are required to keep records of: (a) Number of collars purchased; (b) number of collars attached on livestock; (c) pasture(s) where collared livestock were placed; (d) number and locations of livestock found with ruptured or punctured collars and the apparent cause of the damage; (e) the dates of each attachment, inspection, and removal; (f) number, dates, and approximate location of all collars lost; (g) locations, and dates of all suspected poisonings of humans, domestic animals or non-target wild animals resulting from collar use location and species data on each animal poisoned as an apparent result of the toxic collar. Applicators maintain records, and the registrants/lead agencies do monitoring studies and submit the reports. These records are monitored by either the: (a) State lead agencies; (b) EPA regional offices; or (c) the registrants. The Environmental Protection Agency (EPA, the Agency) receives annual monitoring reports from registrants or State lead agencies.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9 hours per response for registrant respondents; 40 hours per response for certified applicator respondents; and 77 hours per response for State agency respondents per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are pesticide and other agricultural manufacturers (NAICS 325320), *e.g.*, pesticide registrants whose products include 1080 collars; and government establishments primarily engaged in the administration of environmental quality programs (NAICS 9241), *e.g.*, states implementing a 1080 collar monitoring program.

Estimated Number of Respondents: 49.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 1,953 hours.

Estimated Total Annual Labor Cost: $70,261.

Changes in the Estimates: There is an increase of 200 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's estimate of increased numbers of certified applicators (from 35 certified applicators in 2003 to 40 in the current ICR). This change is an adjustment.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7139 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0721; FRL–8299–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Mineral Wool Production (Renewal), EPA ICR Number 1799.04, OMB Control Number 2060–0362

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0721, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 5, 2006 (71 *FR* 38853), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number EPA–HQ–OECA–2006–0721, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket Center is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.epa.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Mineral Wool Production (Renewal).

ICR Numbers: EPA ICR Number 1799.04, OMB Control Number 2060–0362.

ICR Status: This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Mineral Wool Production (40 CFR part 63, subpart DDD) were proposed on May 8, 1997, and promulgated on June 1, 1999. Owners/operators of mineral wool production plants are required to install fabric filter bag leak detection systems and then initiate corrective action procedures in the event of an operating problem. Owners/operators subject to NESHAP subpart DDD must also continuously monitor and record: (1) The operating temperature of each thermal incinerator, (2) cupola production (melt) rate; and (3) for each curing oven, the formaldehyde content of each binder formulation used to manufacture bonded products.

Owners/operators of affected mineral wool production facility must submit initial notifications (where applicable) performance test and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Semiannual reports are also required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NESHAP.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintain reports and records. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart DDD as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 126 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Mineral wool production.

Estimated Number of Respondents: 12.

Frequency of Response: Initially, and semiannually.

Estimated Total Annual Hour Burden: 3,018.

Estimated Total Capital and Operations & Maintenance (O&M) Annual Costs: $9,000, which includes no annualized capital/startup costs and $9,000 in annual O&M costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Dated: April 9, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7141 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0723; FRL–8299–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (Renewal), EPA ICR Number 1666.07, OMB Control Number 2060–0283

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0723, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 5, 2006 (71 FR 58853), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number EPA–HQ–OECA–2006–0723, which is available for online viewing at *http://www.regulations.gov* or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket Center is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at www.regulations.gov as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to www.regulations.gov.

Title: NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations (Renewal).

ICR Numbers: EPA ICR Number 1666.07, OMB Control Number 2060–0283.

ICR Status: This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Commercial Ethylene Oxide Sterilization and Fumigation Operations (40 CFR Part 63, Subpart O) were proposed on March 7, 1994, and promulgated on December 6, 1994. Owners/operators of commercial ethylene oxide (EO) sterilization and fumigation facilities are required to submit initial notification, performance tests, and periodic reports. Respondents are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Semiannual reports are also required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NESHAP.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintain reports and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart O as

authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information are estimated to average 37 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Commercial Ethylene Oxide Sterilization and Fumigation Operations.

Estimated Number of Respondents: 119.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 8,662.

Estimated Total Costs: $1,195,959, which includes $65,000 annualized Capital Startup Costs, $583,000 annualized Operations & Maintenance (O&M) costs, and $547,959 annualized labor costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR other than a fractional labor hour adjustment to account for rounding-off in the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Dated: April 9, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7142 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0632; FRL–8299–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Application for Experimental Use Permit to Ship and Use a Pesticide for Experimental Purposes Only, EPA ICR Number 0276.13, OMB Control Number 2070–0040

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPP–2006–0632, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *opp.ncic@epa.gov*, or by mail to: OPP Regulatory Public Docket (7502P), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Cameo Smoot, Field and External Affairs Division, Office of Pesticide Programs, 7506P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–5454; fax number: 703–305–5884; e-mail address: *smoot.cameo@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 25, 2006, (71 FR 62436), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments on this ICR during the 60-day comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPP–2006–0632, which is available for online viewing at *www.regulations.gov*, or in person viewing at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the Docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Application for Experimental Use Permit to Ship and Use a Pesticide for Experimental Purposes Only.

ICR Status: This is a request to renew an existing approved collection. This ICR is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

Abstract: This information collection provides the EPA with the data necessary to determine whether to issue an experimental use permit (EUP) under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. FIFRA requires that before a pesticide product may be distributed or sold in the U.S. it must be registered by EPA. However, section 5 authorizes EPA to issue experimental use permits which allow pesticide companies to temporarily ship pesticide products for experimental use for the purpose of gathering data necessary to support the application for registration

of a pesticide product. In general, EUP's are issued either for a pesticide not registered with the Agency or for a registered pesticide for a use not registered with the Agency. The permit applications are voluntarily submitted to the Agency, however applicants must submit the applicable information to be granted a permit.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 10 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Pesticide Registrants and other agricultural chemical manufacturing.

Estimated Number of Respondents: 75.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 757.

Estimated Total Annual Labor Cost: $48,237.

Changes in the Estimates: There is no change of hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7143 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0751; FRL–8299–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Flexible Polyurethane Foam Production (Renewal), EPA ICR Number 1783.04, OMB Control Number 2060–0357

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0751, to (1) EPA online using *www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: María Malavé, Compliance Assessment and Media Programs Division (Mail Code 2223A), Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7027; fax number: (202) 564–0050; e-mail address: *malave.maria@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 6, 2006 (71 FR 58853), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–OECA–2006–0751, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Flexible Polyurethane Foam Production (Renewal).

ICR Numbers: EPA ICR Number 1783.04, OMB Control Number 2060–0357.

ICR Status: This ICR is scheduled to expire on May 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and 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 Maximum Achievable Control Technology (MACT) Standards for Flexible Polyurethane Foam

Production, published at 40 CFR part 63, subpart III, were proposed on December 27, 1996, and promulgated on October 7, 1998. These standards apply to owners or operators of new and existing facilities that engage in the manufacture of flexible polyurethane foam products which emit hazardous air pollutants (HAPs). This includes facilities making slabstock flexible polyurethane foam (slabstock foam), rebond flexible polyurethane foam (rebond foam), and/or molded flexible polyurethane foam (molded foam).

In general, all MACT standards require initial notifications, performance tests, and periodic reports. Owners or operators of flexible polyurethane foam production facilities to which this rule is applicable must choose one of the compliance options described in the standard or reduce HAP emissions to below the compliance level. Specifically, the rule requirements for slabstock foam producers include an initial notification, notification of compliance status, semiannual reports and annual compliance certifications. In addition, respondents are required to submit a precompliance report that describes the HAP compliance procedures, and recordkeeping procedures. Those electing to comply with the slabstock foam emission limitation using recovery devices must measure and record emissions as specified in 40 CFR 63.1297 of the rule. The rule requirements for molded and rebond foam producers include a notification of compliance status report and an annual compliance certification. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to MACT.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the United States Environmental Protection Agency (EPA) regional office.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 43 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Flexible polyurethane foam production facilities.

Estimated Number of Respondents: 132.

Frequency of Response: Initially, semiannually and annually.

Estimated Total Annual Hour Burden: 9,047.

Estimated Total Annual Cost: $572,320, which includes $0 annual Startup costs, $0 Operating and Maintenance (O&M) costs, and $572,320 annualized Labor costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Second, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7144 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0719; FRL–8299–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production, (Renewal); EPA ICR Number 1790.04, OMB Control Number 2060–0361

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct, or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0719, to (1) EPA online, using *www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 5, 2006 (71 FR 38853), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number EPA–HQ–OECA–2006–0719, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket Center is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.epa.gov*,

to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select: ''Docket Search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically, or in paper, will be made available for public viewing at *www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production (40 CFR part 63, subparts AA & BB).

ICR Numbers: EPA ICR Number 1790.04, OMB Control Number 2060–0361.

ICR Status: This ICR is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct, or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct, or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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: Owners/operators of affected phosphoric acid manufacturing and phosphate fertilizer production must submit one-time only notifications (where applicable) and annual reports on performance test results. Semiannual reports are required. In addition, a quarterly report is required when excess emissions occur.

Subparts AA and BB require respondents to install monitoring devices to measure the pressure drop and liquid flow rate for wet scrubbers. These operating parameters are permitted to vary within ranges determined concurrently with performance tests. Exceedances of the operating ranges are considered violations of the site-specific operating limits.

The standards require sources to determine and record the amount of phosphatic feedstock material processed or stored on a daily basis. Respondents also maintain records of specific information needed to determine that the standards are being achieved and maintained.

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 Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information are estimated to average 18 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to, or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit, or otherwise disclose the information.

Respondents/Affected Entities: Phosphoric acid manufacturing and phosphate fertilizers production plants.

Estimated Number of Respondents: 12.

Frequency of Response: Initially, quarterly, semiannually, and annually.

Estimated Total Annual Hour Burden: 1,542.

Estimated Total Annual Costs: $109,908, which includes no annualized capital/startup costs, $11,000 in annual O&M costs, and $98,908 in annual labor costs.

Changes in the Estimates: There is no change in the labor hours, or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Second, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7149 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0660; FRL–8299–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Pesticide Product Registration Maintenance Fee, EPA ICR Number 1214.07, OMB Control Number 2070–0100

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPP–2006–0660, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *opp.ncic@epa.gov*, or by mail to: OPP Regulatory Public Docket (7502P), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joseph Hogue, Field and External Affairs Division, Office of Pesticide Programs, 7506P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–9072; fax number: 703–305–5884; email address: *hogue.joe@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 25, 2006 (71 FR 62432), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no

comments on this ICR during the 60-day comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPP–2006–0660, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the Docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Pesticide Product Registration Maintenance Fee.

ICR Status: This is a request to renew an existing approved collection. This ICR is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

Abstract: This information collection provides a practical means of communication between the registrants and Environmental Protection Agency's Office of Pesticide Programs (OPP) to collect registration maintenance fees from pesticide registrants as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Section 4(i)(5). Annually, the Agency provides registrants a list of the registered products currently registered with the Agency. Registrants are provided the opportunity to review the list, determine its accuracy, and remit payment of the maintenance fees. Each affected firm is required to complete the filing form and submit their fee payment by January 15 of each year. The failure to pay the required fee for a product will result in cancellation of that product's registration. Information submitted under this ICR is considered by OPP to contain no confidential business information (CBI). If, however, registrants submit data that contains CBI or relates to trade secrets or commercial or financial information, such information is protected from disclosure under section 10 of FIFRA.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.96 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: All pesticide registrants holding currently active registrations under FIFRA section 3 and Section 24(c) are subject to this information collection activity.

Estimated Number of Respondents: 1,720.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 1645.

Estimated Total Annual Labor Cost: $125,800.

Changes in the Estimates: There is a decrease of 118 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is an adjustment in the estimated burden due to the steady decline of the number of pesticide registrants and, therefore, participation under this program.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7173 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0718; FRL–8298–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for the Manufacture of Amino/Phenolic Resins (Renewal), EPA ICR Number 1869.05, OMB Control Number 2060–0434

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0718, to (1) EPA online using www.regulations.gov (our preferred method), by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 6, 2006 (71 FR 58853), EPA sought comments on this ICR pursuant

to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number EPA–HQ–OECA–2006–0718, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket Center is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.epa.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at www.regulations.gov, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to www.regulations.gov.

Title: NESHAP for the Manufacture of Amino/Phenolic Resins (Renewal).

ICR Numbers: EPA ICR Number 1869.05; OMB Control Number 2060–0434.

ICR Status: This ICR is scheduled to expire on May 31, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Manufacture of Amino/Phenolic Resins (40 CFR part 63, subpart OOO) were proposed on December 14, 1998, and promulgated on January 20, 2000.

The NESHAP standard required initial notification, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are essential in determining compliance and are required, in general, of all sources subject to NESHAP.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintain reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart OOO as authorized in Section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private.

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 are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 293 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers of amino/phenolic resins.

Estimated Number of Respondents: 40.

Frequency of Response: On occasion, initially, and semiannually.

Estimated Total Annual Hour Burden: 24,044.

Estimated Total Costs: $1,537,017, which includes $0 annualized Capital Startup costs, $16,000 annualized Operating and Maintenance Costs (O&M), and $1,521,017, annual Labor Costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7174 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0499; FRL–8298–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Voluntary Cover Sheet for TSCA Submissions; EPA ICR No. 1780.04, OMB No. 2070–0156

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Voluntary Cover Sheet for TSCA Submissions; EPA ICR No. 1780.04, OMB No. 2070–0156. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing docket ID Number EPA–HQ–OPPT–2006–0499 to (1) EPA online

using www.regulations.gov (our preferred method), by e-mail to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408–M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On August 18, 2006 (71 FR 47805), EPA sought comments on this renewal ICR. EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OPPT–2006–0499, which is available for online viewing at *http://www.regulations.gov,* or in person inspection at the OPPT Docket in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Use www.regulations.gov to submit or view public comments, access the index listing of the contents of the public 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 above.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in www.regulations.gov as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in *www.regulations.gov.* The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in *www.regulations.gov.* For further information about the electronic docket, go to *www.regulations.gov.*

Title: Voluntary Cover Sheet for TSCA Submissions.

ICR Status: This is a request to renew an existing approved collection. This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: TSCA requires industry to submit information and studies for existing chemical substances under sections 4, 6, and 8, and requests voluntary submission of such information under the Voluntary Children's Chemical Evaluation Program (VCCEP). EPA typically receives thousands of such submissions each year; each submission represents on average three studies. In addition, EPA can impose specific data call-ins on industry.

As a follow-up to industry experience with a 1994 TSCA data call-in, the Chemical Manufacturers Association (CMA, now known as the American Chemistry Council [ACC]), the Specialty Organics Chemical Manufacturers Association (SOCMA), and the Chemical Industry Data Exchange (CIDX), in cooperation with EPA, took an interest in pursuing electronic transfer of TSCA summary data and of full submissions to EPA. In particular, ACC developed a standardized cover sheet for voluntary use by industry as a first step to an electronic future and to begin familiarizing companies with standard requirements and concepts of electronic transfer. This form is designed for voluntary use as a cover sheet for submissions of information under TSCA sections 4, 8(d), 8(e) and VCCEP. The cover sheet facilitates submission of information by displaying certain basic data elements, permitting EPA more easily to identify, log, track, distribute, review and index submissions, and to make information publicly available more rapidly and at reduced cost, to the mutual benefit of both the respondents and EPA.

Responses to the collection of information are voluntary. Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

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**, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.5 hours per response. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are companies that manufacture, process, use, import or distribute in commerce chemical substances that are subject to reporting requirements under sections 4, 8(d) or 8(e) of the Toxic Substances Control Act (TSCA), or are subject to voluntary reporting under the Voluntary Children's Chemical Evaluation Program (VCCEP).

Frequency of Collection: On occasion.

Estimated average number of responses for each respondent: 1.8.

Estimated No. of Respondents: 1,206.

Estimated Total Annual Burden on Respondents: 1,061 hours.

Estimated Total Annual Costs: $52,779.

Changes in Burden Estimates: This request reflects a decrease of 8,074 hours (from 9,136 hours to 1,061 hours) in the total estimated respondent burden from that currently in the OMB inventory. This decrease reflects a

decrease in the estimated number of submissions under TSCA sections 4, 8(d) and 8(e), offset by the estimated number of submissions under VCCEP, for which the Voluntary TSCA Cover Sheet could be used, in particular a substantial decrease in the estimated number of TSCA section 4 submissions.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7176 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2006–0722; FRL–8298–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Wood Furniture Manufacturing Operations (Renewal), EPA ICR Number 1716.05, OMB Control Number 2060–0324

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before May 16, 2007.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2006–0722, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 5, 2006 (71 FR 38853), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number EPA–HQ–OECA–2006–0722, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket Center is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.epa.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Wood Furniture Manufacturing Operations (Renewal).

ICR Numbers: EPA ICR Number 1716.05, OMB Control Number 2060–0324.

ICR Status: This ICR is scheduled to expire on June 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, 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: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Wood Furniture Manufacturing Operations (40 CFR part 63, subpart JJ) were proposed on December 6, 1994, and promulgated on December 7, 1995. Respondents to this information collection request are the owners and operators of both new and existing wood furniture manufacturing operations that are sources of hazardous air pollutants. Major sources are required to perform recordkeeping activities and submit both initial and semiannual/quarterly compliance reports. Incidental wood furniture manufacturers and area sources must keep records to show that they are not major sources. The information is used to determine that all sources subject to the rule are complying with the standards. The information to be collected is mandatory under the rule.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintain reports and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart JJ as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

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 Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information are estimated to average 45 hours per

response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Wood furniture manufacturers.

Estimated Number of Respondents: 750.

Frequency of Response: Initially, semiannually and quarterly.

Estimated Total Annual Hour Burden: 47,190 hours.

Total Estimated Costs: $3,003,109, which includes $0 annualized Capital Startup Costs, $18,000 annualized Operations & Management (O&M) Costs, and $2,985,109 annualized Labor Costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Dated: April 6, 2007.

Robert Gunter,

Acting Director, Collection Strategies Division.

[FR Doc. E7–7182 Filed 4–13–07; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Thursday, April 19, 2007 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEM: Revisions to the Economic Impact Procedures.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1 only.

FURTHER INFORMATION: For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Telephone 202–565–3957).

Howard A. Schweitzer,

General Counsel.

[FR Doc. 07–1904 Filed 4–12–07; 3:24 pm]

BILLING CODE 6690–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 07–03]

Armstrong World Industries, Inc. v. Expeditors International of Washington, Inc.; Notice of Complaint and Assignment

Notice is given that a complaint and First Request for Production of Documents has been filed with the Federal Maritime Commission (''Commission'') by Armstrong World Industries, Inc. (''AWI''). Complainant asserts that it is a corporation under the laws of the State of Pennsylvania whose principal business is as a designer and manufacturer of floors. Complainant alleges that Respondent, Expeditors International (''Expeditors'') is a corporation under the laws of the State of Washington and is licensed by the Federal Maritime Commission as an Ocean Transportation Intermediary, Non-Vessel-Operating Common Carrier.

Complainant alleges that they used the services of Respondent for their ocean transportation requirements around the world, including from the Far East to Complainant's facilities in the U.S. through U.S. West Coast Ports. Complainant asserts that during the 2005 peak shipping season Respondent ''triple charged AWI for the pass-through peak season shipping charges assessed under Respondent's ocean shipping contracts with its Vessel-Operating Common Carriers.'' Complainant alleges that the additional charges constitute violations of the following Sections of the Shipping Act of 1984 (''The Act''): Section 10(b)(4)(a) (46 U.S.C. 1709(b)(4)(a)) (now 46 U.S.C. 41104) for unfair or unjustly discriminatory practices in the matter of rates and charges; Section 10(b)(8) (46 U.S.C. App. section 1709(b)(8)) (now 46 U.S.C. 41104) for the imposition of undue and unreasonable prejudice and disadvantage; and Section 10(d)(1) (46 U.S.C. App. section 1709(d)(1)) (now 46 U.S.C. 41102(c)), for failure to establish just and reasonable regulations and practices relating to or connecting with receiving or handling of property. Complainant requests the Commission to: (a) Find Respondent to have violated the above referenced sections of the Act; (b) direct Respondent to pay $216,765.00 and such other amounts proven by evidence in this proceeding, interest, and attorney's fees; and (c) impose any other relief as the Commission determines to be proper, fair, and just.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 9, 2008, and the final decision of the Commission shall be issued by August 7, 2008.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–7095 Filed 4–13–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background.

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information

instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Michelle Shore—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

Report title: Report of Money Market Mutual Fund Assets

Agency form number: FR 2051a (formerly FR 2051a,b)

OMB control number: 7100–0012

Frequency: Weekly

Reporters: Money Market Mutual Funds

Annual reporting hours: 5,200 hours

Estimated average hours per response: 3 minutes

Number of respondents: 2,000

General description of report: This information collection is voluntary (12 U.S.C. 353 et. seq.) and is given confidential treatment [5 U.S.C. 552(b)(4)].

Abstract: The weekly FR 2051a collects data on total shares outstanding for approximately 2,000 money market mutual funds. The monthly FR 2051b collects data on total net assets and portfolio holdings for approximately 600 funds. The data are used to construct the monetary aggregates and for the analysis of current money market conditions and banking developments.

Current Actions: On February 1, 2007, the Federal Reserve published a notice in the Federal Register (72 FR 4708) requesting public comment for 60 days on the extension, with revision, of the Report of Money Market Mutual Fund Assets. The comment period for this notice expired on April 2, 2007. No comments were received. The revisions will be implemented as proposed.

The Federal Reserve proposed to discontinue the monthly FR 2051b. Prior to the discontinuance of the M3 monetary aggregate in March 2006, the monthly data were used in the construction of the M3 aggregate. Due to the M3 discontinuance, data from the FR 2051b are no longer necessary. The discontinuance of the FR 2051b will reduce the annual burden by 1,440 hours to 5,200 hours.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. Report title: Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer; Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer

Agency form number: FR MSD–4, FR MSD–5

OMB control number: 7100–0100, 7100–0101

Frequency: On occasion

Reporters: State member banks and foreign dealer banks engaging in activities as municipal securities dealers.

Annual reporting hours: FR MSD–4, 76 hours; FR MSD–5, 30 hours

Estimated average hours per response: FR MSD–4, 1 hour; FR MSD–5, 0.25 hours

Number of respondents: FR MSD–4, 76; FR MSD–5, 119

General description of report: These information collections are mandatory for state member banks (12 U.S.C. § 248(a)(1)) and for foreign bank branches and agencies (12 U.S.C. 3105(c)(2)) and are given confidential treatment (5 U.S.C. § 552(b)(6)).

Abstract: The FR MSD–4 collects information, such as personal history and professional qualifications, on an employee whom the bank wishes to assume the duties of a municipal securities principal or representative. The FR MSD–5 collects the date of, and reason for, termination of such an employee.

Current Actions: On February 1, 2007, the Federal Reserve published a notice in the Federal Register (72 FR 4708) requesting public comment for 60 days on the extension, without revision, of the Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer, and the Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer. The comment period for this notice expired on April 2, 2007. No comments were received.

2. Report title: Notice By Financial Institutions of Government Securities Broker or Government Securities Dealer Activities; Notice By Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer

Agency form number: FR G–FIN, FR G–FINW

OMB control number: 7100–0224

Frequency: On occasion

Reporters: State member banks, foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge corporations.

Annual reporting hours: FR G–FIN, 26 hours; FR G–FINW, 1 hour

Estimated average hours per response: FR G–FIN, 1 hour; FR G–FINW, 0.25 hours

Number of respondents: FR G–FIN, 26; FR G–FINW, 5

General description of report: These information collections are mandatory (15 U.S.C. 78o–5(a)(1)(B)) and are not given confidential treatment.

Abstract: The Government Securities Act of 1986 (the Act) requires financial institutions to notify their appropriate regulatory authority of their intent to engage in government securities broker or dealer activity, to amend information submitted previously, and to record their termination of such activity. The Federal Reserve Board uses the information in its supervisory capacity to measure compliance with the Act.

Current Actions: On February 1, 2007, the Federal Reserve published a notice in the Federal Register (72 FR 4708) requesting public comment for 60 days on the extension, without revision, of the Notice By Financial Institutions of Government Securities Broker or Government Securities Dealer Activities, and the Notice By Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer. The comment period for this notice expired on April 2, 2007. No comments were received.

Board of Governors of the Federal Reserve System, April 11, 2007.

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. E7–7137 Filed 4–13–07; 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 May 11, 2007.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Cooperative Bankshares, Inc., Wilmington, North Carolina; to acquire 100 percent of the voting shares of Bank of Jefferson, Jefferson, South Carolina.

Board of Governors of the Federal Reserve System, April 11, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–7123 Filed 4–13–07; 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 May 11, 2007.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106-2204:

1. BankFive, MHC, and BankFive Corporation, both of Fall River, Massachusetts; to acquire 100 percent of the voting shares, and thereby merge with New Bedford Community Bancorp and acquire Luzo Community Bank, both of New Bedford, Massachusetts.

B. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. GC Bancorp, Inc., Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Gold Coast Bank, Chicago, Illinois.

In connection with this application Applicant also has applied to engage de novo in extending credit and servicing loans, pursuant to section 225.28 (b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, April 11, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–7124 Filed 4–13–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Chronic Fatigue Syndrome Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Chronic Fatigue Syndrome Advisory Committee (CFSAC) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, May 16, 2007 and Thursday, May 17, 2007. The meeting will be held from 9 a.m. to approximately 5 p.m. on both days.

ADDRESSES: Department of Health and Human Services, Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Dr. Anand K. Parekh, Executive Secretary, Chronic Fatigue Syndrome Advisory Committee, Department of Health and Human Services, 200 Independence Avenue, SW., Room 727H, Washington, DC 20201, or Ms. Olga Nelson at (202) 401–7899.

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002. The Committee was established to advise, consult with, and make recommendations to the Secretary, through the Assistant Secretary for Health, on a broad range of topics including (1) the current state of knowledge and research about the epidemiology and risk factors relating to chronic fatigue syndrome, and identifying potential opportunities in these areas; (2) current and proposed diagnosis and treatment methods for chronic fatigue syndrome; and (3) development and implementation of programs to inform the public, health care professionals, and the biomedical, academic, and research communities about chronic fatigue syndrome advances.

The agenda for this meeting is being developed. The agenda will be posted on the CFSAC Web site, *http://www.hhs.gov/advcomcfs,* when it is finalized.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the building where the meeting is scheduled to be held. Individuals who plan to attend and need special

assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Individuals who wish to address the Committee during the public comment session must pre-register by May 11, 2007. Any individual who wishes to participate in the public comment session should call the telephone number listed in the contact information to register. Public comments will be limited to five minutes per speaker. Members of the public who wish to have printed material distributed to CFSAC members for discussion should submit, at a minimum, one copy of the material to the Executive Secretary, CFSAC, prior to close of business on May 11, 2007. Contact information for the Executive Secretary, CFSAC, is listed above.

Dated: April 10, 2007.

Anand K. Parekh,

Executive Secretary, Chronic Fatigue Syndrome Advisory Committee.

[FR Doc. E7–7130 Filed 4–13–07; 8:45 am]

BILLING CODE 4150–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Report on Carcinogens Review Process for the 12th Report on Carcinogens (RoC)

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The NTP announces its scientific review process to review nominations for the 12th RoC. The process is available on the NTP Web site *http://ntp.niehs.nih.gov* (select ''Report on Carcinogens'') or by contacting Dr. C.W. Jameson at the address provided below.

ADDRESSES: All correspondence should be directed to Dr. C.W. Jameson, National Toxicology Program, Report on Carcinogens, 79 Alexander Drive, Building 4401, Room 3118, P.O. Box 12233, Research Triangle Park, NC 27709; telephone: (919) 541–4096, fax: (919) 541–0144, e-mail: *jameson@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 17, 2006, the NTP released its draft review process applicable for nominations to the 12th RoC (71 FR 47507) and invited public comment. The NTP considered all comments received and now announces the final RoC review process for the 12th RoC. Two important elements in the RoC review process are (1) the public peer review of draft background documents by *ad hoc* scientific expert panels and (2) the public peer review of draft substance profiles by the NTP Board of Scientific Counselors. In addition, the NTP will also, on a trial basis, prepare a response to public comments for the 12th RoC. The RoC review process is described in more detail on the NTP Web site (*http://ntp.niehs.nih.gov/* select ''Report on Carcinogens'').

Background Information on the Report on Carcinogens

The RoC is a congressionally mandated document (Section 301(b)(4) of the Public Health Services Act, 42 U.S.C. 241(b)(4)), published by the Secretary of Health and Human Services (HHS), that identifies agents, substances, mixtures, or exposure circumstances (collectively referred to as ''substances'') that may pose a carcinogenic hazard to human health. The Secretary, HHS, has delegated responsibility for preparing the draft report to the NTP. Substances are listed in the RoC as either known to be a human carcinogen or reasonably anticipated to be a human carcinogen. Review of nominations involves a multi-step scientific review process with opportunity for public comment. At the end of this process, NTP forwards a draft RoC to the Secretary for review, approval, and transmittal to Congress and the public.

The NTP solicits and encourages the broadest participation from interested individuals or parties in nominating substances for review for future RoCs. Nominations should contain a rationale for review. Appropriate background information and relevant data [e.g., journal articles, NTP Technical Reports, International Agency for Research on Cancer (IARC) listings, exposure surveys, release inventories, etc.] that support the review of a nomination should be provided or referenced when possible. Contact information for the nominator should also be included [name, affiliation (if any), address, telephone, fax, and e-mail].

Dated: March 19, 2007.

David A. Schwartz,

Director, National Institute of Environmental Health Science and National Toxicology Program.

[FR Doc. E7–7111 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office for Civil Rights; Delegations of Authority

Notice is hereby given that I have delegated to the Director of the Office for Civil Rights the following authority vested in the Secretary of Health and Human Services.

A. Subpoenas for the Health Insurance Portability and Accountability Act of 1996: Authority under Section 205(d) of the Social Security Act (42 U.S.C. 405(d)), with authority to redelegate, to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or compliance review for failure to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) standards and requirements related to the privacy of individually identifiable health information at 45 CFR parts 160 and 164.

Section 1176(a)(2) of the Social Security Act, 42 U.S.C. 1320d–5(a)(2), which provides authority for the imposition of civil money penalties (CMPs) for violations, makes section 1128A of the Social Security Act, 42 U.S.C. 1320a–7a, applicable to the imposition of CMPs for violations of the HIPAA administrative simplification standards. Section 1128A(j)(1), 42 U.S.C. 1320a–7a(j)(1), makes section 205(d) and (e) of the Social Security Act, 42 U.S.C. 405(d) and (e), applicable to section 1128A as the subsections are with respect to Title II of the Social Security Act. Section 205(d) and (e) authorizes the issuance of subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Secretary and the enforcement of such a subpoena in court in event of refusal to comply.

B. Subpoenas for the Patient Safety and Quality Improvement Act of 2005: Authority under Section 205(d) of the Social Security Act (42 U.S.C. 405(d)), with authority to redelegate, to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates

to any matter under investigation or compliance review for failure to comply with the confidentiality provisions of the Patient Safety and Quality Improvement Act of 2005. Section 922(f)(2) of the Public Health Service Act, 42 U.S.C. 299b–22(f)(2), provides that section 1128A of the Social Security Act shall apply to CMPs under the Patient Safety and Quality Improvement Act of 2005. As noted above, section 1128A incorporates by reference section 205(d) and (e) of the Social Security Act, which authorizes the issuance and enforcement of subpoenas.

These delegations shall be exercised under the Department's existing delegation of authority on the issuance of regulations and existing policy on the issuance of regulations.

In addition, I hereby affirm and ratify any actions taken by the Director of the Office for Civil Rights or his subordinates which involved the exercise of the authority delegated herein prior to the effective date of these delegations.

These delegations are effective immediately.

Michael O. Leavitt,

Secretary.

[FR Doc. 07–1872 Filed 4–13–07; 8:45 am]

BILLING CODE 4153–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS) is being amended at Chapter AB, Deputy Secretary, Chapter ABE, ''Security Clearance and Drug Testing Office (ABE),'' as last amended at 67 FR 71568–70, dated December 2, 2002. This reorganization is to establish the Office of Security and Strategic Information (ABE), as a direct report to the Deputy Secretary. The changes are as follows:

I. Under Part A, Chapter AB, ''Security Clearances and Drug Testing Office (ABE),'' delete in its entirety, and replace with the following:

Office of Security and Strategic Information (ABE)

ABE.00 Mission.
ABE.10 Organization.
ABE.20 Function.

Section ABE.00 Mission. On behalf of the Secretary and the Deputy Secretary, the Office of Security and Strategic Information (OSSI) provides broad Department-wide policy direction, standards setting, coordination, and performance assessment for organizational components within HHS in the areas of: physical security; personnel security and suitability; security awareness; information security, including the safeguarding of classified material and classification management; communication security; security and threat assessments; and strategic information programs and activities. OSSI functions as a platform to further HHS' roles in its various missions for protecting and improving the public health of the Nation, by protecting employees and visitors and Departmentally owned and occupied critical infrastructure, and by assuring the integration of strategic medical, public health, biomedical, and national security information. OSSI engages in and manages multiple internal Department and external relationships with other Federal Government Departments and agencies and external constituencies. OSSI directly manages and administers the flow of classified information and provides national security information services to all components within the Office of the Secretary (OS).

Section ABE.10 Organization. The Office of Security and Strategic Information (ABE) is headed by a Director who reports directly to the Deputy Secretary, and includes the following components:

- Immediate Office (ABE).
- Division of Physical Security (ABE1).
- Division of Personnel and Classified Information Security (ABE2).
- Division of Strategic Information (ABE3).

Section ABE.20 Functions.

1. Immediate Office (ABE). The Immediate Office of the OSSI is responsible for the following: (1) Providing overall leadership for the development, coordination, application, and evaluation of all policies and activities within the Department that relate to physical and personnel security, the security of classified information, and the exchange and coordination of national security-related strategic information with our Federal Government Departments and agencies and the national security community, including national security-related relationships with law enforcement organizations (LEOs) and public safety agencies; (2) serving as the principal advisor to and representative of the Secretary and Deputy Secretary on national security, physical and personnel security, security awareness, classified information security, and related medical, public health, and biomedical strategic information matters, including with organizations outside of the Department; (3) directing activities for all committees and work groups pertaining to these matters; (4) serving as the manager for any designation of representatives to external national security and related work groups; (5) providing policy oversight and coordination related to the architectural security function in the Office of the Assistant Secretary for Administration and Management (ASAM); the Cyber security and critical infrastructure functions in the Office of the Assistant Secretary for Resources and Technology (ASRT); and the Select Agents Program within the Centers for Disease Control and Prevention (CDC) and other Departmental units having select agent responsibilities; (6) serving as the principal contact with the Office of the Director of national Intelligence, and all of its subsidiary organizations; (7) serving as the principal contact point for other Federal Government Departments and agencies that have an interest in the sharing of strategic or national security-related medical, public health, and related scientific information; (8) approving the detail or assignment of personnel to or from components of national security agencies, LEO, and public safety agency communities, and serving as supervisor during their term (9) working with the Office of the Inspector General and the Office of the Assistant Secretary for Preparedness and Response (ASPR) on issues of mutual interest; and (10) conducting periodic assessments of the performance of relevant systems and activities and providing reports and recommendations to the Secretary and Deputy Secretary.

2. Division of Physical Security (ABE1). The Division of Physical Security (DPS) is responsible for the following: (1) Providing policy guidance, setting standards, and overseeing all matters pertaining to: (a) The physical security of facilities, stockpiles, vendor-managed inventories, logistical systems, employees, visitors, and contractors; (b) security functions during disaster and emergency response, including those at principal and alternate emergency operations locations, and providing assistance to and coordination with the ASPR for deployed HHS personnel, resources, and activities; (c) security and force

protection during emergency activities, including by working with military and civilian Federal Government Departments and agencies, State, and local LEOs and public safety agencies; (d) physical security components of Homeland Security Presidential Directives, as well as similar Directives or Executive Orders on national security matters; (2) representing the Department at the Interagency Security Committee, Information Sharing Council, and other similar committees and work groups; (3) coordinating with the ASRT on matters pertaining to policies for Cyber protections, the National Cyber Security Response Program, and the Critical Infrastructure Assurance Program and with the ASAM on policies pertaining to the architectural security program, and conducting periodic collaborative reviews of these programs; (4) serving as the day-to-day point of contact with local, State, and Federal LEOs and public safety agencies on OSSI-related subject matter; (5) coordinating activities with the Secretary's Operations Center, when appropriate; and for (6) coordinating and overseeing the Department's internal critical infrastructure protection program.

3. Division of Personnel and Classified Information Security (ABE2). The Division of Personnel and Classified Information Security (DPCIS) is responsible for the following: (1) Providing policy guidance, setting standards, and overseeing all matters pertaining to: (a) Personnel security, national security clearances, and suitability programs as they apply to Departmental employees, consultants, and contractors; (b) communications security, including the integrity of classified information systems, technology, terminals and databases, and telecommunications security, and for direct management of these functions for all organizational elements contained within the OS; (2) establishing policies for and directing the Department's drug-free workplace program; (3) initiating and conducting national security clearance processes and background investigations for Departmental employees, consultants, or contractors, and maintaining related records; (4) establishing Department-wide policies and awareness programs for information security to include the control of classified and sensitive but unclassified (SBU) materials, secure information handling and storage, and related training programs; (5) coordinating national security clearance interchange between Federal Government Departments and agencies and other organizations; (6) directing a Department-wide international traveler training and awareness program and foreign visitor awareness program; (7) within the OS, headquarters facilities, and continuity sites, directly managing classified materials, access to sensitive compartmented information facilities 9SCIFs) and information storage areas, secure audio and video systems, and other classified and secure communications systems; (8) establishing and overseeing Department-wide policies for similar functions and resources within the Department; (9) establishing and overseeing Department-wide policies for document classification management; and for (10) establishing standards to ensure awareness of appropriate practices to safeguard confidential and classified information held by the Department.

4. Division of Strategic Information (ABE3). The Division of Strategic Information (DSI) is responsible for the following: (1) Establishing policies and procedures to share and convey sensitive and classified information to users in the Department; (2) receiving, assessing, and evaluating products, reports, and other strategic information for applicability in the context of the various public health and science missions of the Department; (3) providing briefings, digests, and science-based reviews and assessments related to strategic and classified information; (4) controlling the flow of mission-driven sensitive, classified, and strategic information within OS, and coordinating the flow between other components of the Department; (5) coordinating and superintending the flow of strategic national security-related public health and science information to and from HHS personnel detailed or assigned to national security agencies, LEOs, and public safety agencies; (6) managing and providing liaison for open source information programs and workgroups and the Information Sharing Environment Council; (7) providing policy direction for procedures to facilitate the identification of circumstances that are a potential vulnerability or threat to security; (8) conducting analyses of potential or identified risks to security and safety and working with agencies to develop methods to address them, including assisting in program implementation, performance evaluation, and oversight; and for (9) promoting cross-agency and inter-Departmental information sharing and scientific analysis collaborations.

II. Continuation of Policy: Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to the functions contained in this reorganization, heretofore issued and in effect prior to the date of this reorganization, are continued in full force and effect.

III. Delegations of Authority: All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

VI. Funds, Personnel and Equipment: Transfer of organizations and functions affected by this reorganization shall be accompanied in each instance by direct and support funds, positions, personnel, records, equipment, supplies and other resources.

Dated: April 3, 2007.

Michael O. Leavitt,

Secretary.

[FR Doc. 07–1873 Filed 4–13–07; 8:45 am]

BILLING CODE 4150–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Environmental Health Sciences (NIEHS); Request for Public Comments on the Review of the Centers for Children's Environmental Health and Disease Prevention Program

AGENCY: National Institutes of Health (NIH), Department of Health and Human Services.

ACTION: Request for comments.

SUMMARY: As part of an effort to evaluate the NIEHS research portfolio of investigator-initiated research on children's environmental health, the NIEHS convened an independent panel to review the Centers for Children's Environmental Health and Disease Prevention Program (''Children's Centers'') in cooperation with the U.S. Environmental Protection Agency (EPA). The panel was convened as a working group to the NIEHS National Advisory Environmental Health Sciences Council (NAEHS). At this time, the NIEHS seeks public comment on the working group report for consideration by the NAEHS Council, the NIEHS, and EPA's Office of Research and Development (ORD) in evaluating the best approaches for future funding of children's environmental health research. The report is available at *http://www.niehs.nih.gov/conferences/od/cehr/report.htm.*

DATES: Please submit comments on or before May 15, 2007.

ADDRESSES: Comments should be submitted to Dr. Kristina Thayer

(NIEHS, P.O. Box 12233, MD B2–08, Research Triangle Park, NC 27709; telephone: 919–541–5021 or e-mail: *thayer@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Background Information

Over the past 30 years, the NIEHS has invested millions of dollars in children's environmental health research. In order to maximize the effectiveness of current and future investments of human and financial resources, the Institute is conducting a review of the children's environmental health programs. For the past eight years, the Institute has partnered with the EPA to support thirteen research centers devoted to children's environmental health and disease prevention. The Children's Centers draws upon the resources of community partners and the expertise of top universities and medical centers to focus on the important role that environmental toxicants play in the development of asthma, autism, and other childhood illnesses. The Children's Centers are a prominent component of the research portfolio in children's environmental health at both the NIEHS and EPA. As such, the NIEHS and EPA believe it is necessary to evaluate the program's effectiveness as a mechanism to stimulate research in children's environmental health. In addition, it is important to determine whether other approaches should be considered to advance children's environmental health research and education. Supporting research that shows the greatest promise for rapidly identifying links between environmental exposures and childhood disorders and disease is a primary focus.

Request for Comment

At this time, the NIEHS seeks public comment on the working group report. The comments will be distributed to ORD and the NAEHS Council prior to discussion of the working group report at a public meeting on May 30–31, 2007. Comments or additional information may be submitted at any time; however, to ensure adequate time for consideration prior to the May 30–31, 2007 meeting, comments should be submitted by May 15, 2007. The NIEHS and the EPA will not respond to submitted comments; however, all comments will be considered by the NAEHS Council, NIEHS and the EPA in evaluating the best approaches for future funding of children's environmental health research. Persons submitting comments should include their name, affiliation (if relevant), and sponsoring organization (if any) with the submission. Written submissions will be made publicly available on the NIEHS Web site as they are received (*http://www.niehs.nih.gov/conferences/od/cehr/report.htm*).

Dated: April 5, 2007.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. E7–7107 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: CDC Mentored Public Health Research Scientist Development Award, Request for Applications (RFA) CD07–003

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 a meeting of the aforementioned Special Emphasis Panel.

Times and Dates:

8 a.m.–5 p.m., June 21, 2007 (Closed).
8 a.m.–5 p.m., June 22, 2007 (Closed).

Place: Doubletree Buckhead Hotel, 3342 Peachtree Road, NE., Atlanta, GA 30326.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of the scientific merit of research applications in response to RFA CD07–003, ''CDC Mentored Public Health Research Scientist Development Award.''

Contact Person for More Information: Juliana Cyril, M.P.H., Ph.D., Designated Federal Officer, 1600 Clifton Road, Mailstop D72, Atlanta, GA 30333, telephone (404) 639–4639.

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: April 9, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–7184 Filed 4–13–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Community and Tribal Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health (NCEH)/Agency for Toxic Substances and Disease Registry (ATSDR): Meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention, NCEH/ATSDR announces the following meeting of the aforementioned subcommittee:

Time and Date: 8:30 a.m.–4:30 p.m., May 16, 2007.

Place: Century Center, 1825 Century Boulevard, Atlanta, Georgia 30345.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 40 people.

Purpose: Under the charge of the BSC, NCEH/ATSDR the CTS will provide the BSC, NCEH/ATSDR with a forum for community and tribal firsthand perspectives on the interactions and impacts of the NCEH/ATSDR's national and regional policies, practices and programs.

Matters To Be Discussed: The meeting agenda will include an update on NCEH/ATSDR Environmental Justice Web site development, a discussion on the Center's Environmental Justice oriented inventory, a review and selection of projects for further discussion, and an update on the Office of Tribal Affairs.

Items are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: This meeting is scheduled to begin at 8:30 a.m. Eastern Daylight Saving Time. To participate, please dial 877/315–6535 and enter conference code 383520. Public comment period is scheduled for 1:30 p.m.–1:45 p.m.

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR,

1600 Clifton Road, Mail Stop E–28, Atlanta, GA 30303, telephone: 404/498–0003, fax: 404/498–0059, E-mail: *smalcom@cdc.gov*. The deadline for notification of attendance is May 2, 2007.

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: April 9, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–7188 Filed 4–13–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

Delegation of Authority

Notice is hereby given that I have delegated to the Administrator of the Centers for Medicare and Medicaid Services, the following authority vested in the Secretary of Health and Human Services.

Subpoenas for the Health Insurance Portability and Accountability Act of 1996 (HIPAA): Authority under Section 205(d) of the Social Security Act (42 U.S.C. 405(d)), with authority to redelegate, to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or compliance review for failure to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) standards and requirements related at 45 CFR parts 160, 162 and 164 (except to the extent they pertain to the standards for privacy of individually identifiable health information).

Section 1176(a)(2) of the Social Security Act, 42 U.S.C. 1320d–5(a)(2), which provides authority for the imposition of civil money penalties (CMPs) for violations, makes section 1128A of the Social Security Act, 42 U.S.C. 1320a–7a, applicable to the imposition of CMPs for violations of HIPAA administrative simplification standards. Section 1128A(j)(1), 42 U.S.C. 1320a–7a(j)(l), makes section 205(d) and (e) of the Social Security Act, 42 U.S.C. 405(d) and (e), applicable to section 1128A as the subsections are with respect to Title II of the Social Security Act. Section 205(d) and (e) authorizes the issuance of subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Secretary and the enforcement of such a subpoena in court in event of refusal to comply.

This delegation shall be exercised under the Department's existing delegation of authority on the issuance of regulations and existing policy on the issuance of regulations.

In addition, I hereby affirm and ratify any actions taken by the Administrator of the Centers for Medicare and Medicaid Services, or his subordinates which involved the exercise of the authority delegated herein prior to the effective date of this delegation.

This delegation is effective immediately.

Michael O. Leavitt,

Secretary.

[FR Doc. 07–1871 Filed 4–13–07; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 16, 2007, from 9 a.m. to 4:30 p.m. and on May 17, 2007, from 8 a.m. to 1 p.m.

Location: Hilton Hotel, Washington DC North/Gaithersburg, 620 Perry Pkwy., Gaithersburg, MD 20877.

Contact Person: Christine Walsh or Denise Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512391. Please call the Information Line for up-to-date information on this meeting.

Agenda: On May 16, 2007, in the morning session, the committee will hear presentations and make recommendations on the safety and effectiveness of influenza virus vaccine live (FluMist) in a pediatric population less than 59 months of age, manufactured by MedImmune Vaccines, Inc. In the afternoon, the committee will hear an overview of the function of the Laboratory of Bacterial Polysaccharides and the Laboratory of Enteric & Sexually Transmitted Diseases, Division of Bacterial Parasitic and Allergenic Products, Office of Vaccines Research and Review, CBER and in closed session will discuss the report of the November 29, 2006, laboratory site visit. On May 17, 2007, the committee will hear presentations and make recommendations on the safety and immunogenicity of a live vaccinia virus smallpox vaccine (ACAM2000) manufactured by Acambis, Inc.

FDA intends to make background material available to the public no later than 1 business day before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: On May 16, 2007, from 9 a.m. to 3:50 p.m. and on May 17, 2007, from 8 a.m. to 1 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 2, 2007. Oral presentations from the public will be scheduled between approximately 11:45 a.m. to 12:15 p.m. and 3:20 p.m. to 3:50 p.m. on May 16, 2007, and between approximately 11:15 a.m. to 11:45 a.m. on May 17, 2007. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 24, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to

speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 25, 2007.

Closed Committee Deliberations: On May 16, 2007 from 3:50 p.m. to 4:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The committee will discuss the review of internal research programs in the Office of Bacterial Parasitic and Allergenic Products, Office of Vaccines Research and Review, CBER.

Person's attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Christine Walsh or Denise Royster at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 6, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E7–7090 Filed 4–13–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

New Mouse T Cell Receptors as Potential Therapeutic Agents for the Treatment of Metastatic Cancer

Description of Technology: Adoptive immunotherapy is one of the most promising new therapeutic approaches to treat cancer.

T cell receptors (TCR) are the proteins responsible for the T cell's ability to recognize infected or transformed cells. A TCR consists of two domains, one variable domain that recognizes the antigen and one constant region that helps the TCR anchor to the membrane and transmit the recognition signal by interacting with other proteins.

This invention describes the identification of two mouse TCRs that target a common and highly expressed melanoma antigen, gp100, expressed by human cancers. These TCRs, have superior (100–1000 times) biological function compared to other human tumor-specific TCR that are currently in use in experimental trials using genetically engineered T cells. Therefore, these new TCRs represent potential therapeutic agents that can be used in the treatment of metastatic cancers, especially melanomas.

Applications: New mouse TCRs have been identified that recognize human gp100; The mouse TCRs have 100–1000 times superior biological function compared to their human counterpart in recognizing gp100 when expressed in human lymphocytes; Human T cells genetically engineered to express new TCRs can serve as potential therapeutic agents in the treatment of patients with metastatic cancers; Clinical trials with these novel TCRs are currently being planned.

Development Status: Pre-clinical work has been completed and clinical studies are forthcoming.

Inventors: Nicholas P. Restifo *et al.* (NCI).

Relevant Publications:

1. A manuscript relating to this invention is under preparation and will be available once accepted.

2. RA Morgan *et al.* Cancer regression in patients after transfer of genetically engineered lymphocytes. Science. 2006 Oct 6;314(5796):126–129.

Patent Status: U.S. Provisional Application No. 60/884,732 filed 12 Jan 2007 (HHS Reference No. E–059–2007/0–US–01); U.S. Provisional Application No. 60/885,724 filed 19 Jan 2007 (HHS Reference No. E–059–2007/1–US–01).

Licensing Status: This technology is available for licensing under an exclusive or non-exclusive patent license.

Licensing Contact: Michelle Booden, Ph.D.; 301/451–7337; *boodenm@mail.nih.gov.*

Collaborative Research Opportunity: The Surgery Branch, NCI, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this T cell receptor that is specific for human tumors. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

A Novel DNA Vaccine for the Treatment of Malignancies Expressing Immature Laminin Receptor Protein

Description of Technology: This invention describes a new potent chemoattractant-based DNA vaccine to evoke therapeutic anti-tumor responses against tumors. The vaccine targets the antigen presenting cells (APCs) to efficiently present an antigen to MHC class I and class II molecules to induce tumor specific CD4 and CD8 T cell responses.

The antigen tested is a highly conserved oncofetal antigen named immature laminin receptor protein (OFA–iLRP) that is preferentially expressed in malignant tissues. The vaccine construct consists of novel fusion proteins with enhanced binding affinities to augment antigen processing and antitumor responses.

Applications and Modality:

1. *In vivo* laboratory data shows that OFA–iLRP can be used as a potential immunotherapeutic antigen for the treatment of several malignancies including lymphoma, breast, lung, and ovarian.

2. The vaccine construct is a novel fusion protein designed to enhance immunogenicity of OFA–iLRP via delivering it to chemokine receptors expressed on antigen presenting cells.

3. The vaccine formulation will be most effective if used for treatment of cancer patients with minimal residual disease to protect from the disease relapse.

4. The vaccine potentially could be effective as a preventive measure for people with cancer predisposition by eliciting long term anti-OFA–iLRP humoral and cellular memory.

5. Very simple and less invasive vaccine that can be easily delivered to the skin, muscle or other tissues.

Market: Previous attempts to produce a vaccine construct with OFA–iLRP antigen have been laborious, expensive and non-reproducible showing no definitive demonstrations on the efficacy use of OFA–iLRP as a cancer vaccine. This simple chemoattractant based DNA vaccine is effective, potential cancer therapy with extensive *in vivo* data. It can be a valuable addition to the fast growing cancer vaccine market.

Development Status: The technology is currently in the pre-clinical stage of development and planned for clinical tests in patients with NSCLC (tentative start date 2008).

Inventors: Arya Biragyn *et al.* (NIA)

Related Publications:

1. A manuscript directly related to this technology will be available as soon as it is accepted for publication.
2. A Biragyn *et al.* Genetic fusion of chemokines to a self tumor antigen induces protective, T-cell dependent antitumor immunity. Nat Biotechnol. 1999 Mar;17(3):253–258.
3. A Biragyn *et al.* Mediators of innate immunity that target immature, but not mature, dendritic cells induce antitumor immunity when genetically fused with nonimmunogenic tumor antigens. J Immunol. 2001 Dec 1;167(11):6644–6653.

Patent Status: U.S. Provisional Application No. 60/841,927 filed 01 Sep 2006, entitled ''Methods and Compositions for the Treatment and Prevention of Cancer'' (HHS Reference No. E–271–2006/0–US–01).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Thomas P. Clouse, J.D.; 301/435–4076; *clousetp@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute on Aging, Immunotherapeutics Unit, Laboratory of Immunology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize simple and potent vaccines that target embryonic antigens expressed in tumors. Please contact John D. Hewes, Ph.D. at (301) 435–3121 or *hewesj@mail.nih.gov* for more information.

Preparation of (R,R)-Fenoterol and (R,R)-or (R,S)-Fenoterol Analogues and Their Use in Treating Congestive Heart Failure

Description of Technology: This technology is directed to the discovery of (R,R)- and (R,S,)-fenoterol analogues which are highly effective and selective at binding B2-adrenergic receptors. The patent application includes methods of using such compounds and compositions for the treatment of cardiac disorders such as congestive heart failure and pulmonary disorders such as asthma or chronic obstructive pulmonary disease.

Market: Approximately 5 million individuals are diagnosed with congestive heart failure in the United States and an estimated 3.5 million hospitalizations are attributed to heart failure each year.

Inventors: Irving W. Wainer *et al.* (NIA).

Patent Status: U.S. Provisional Application No. 60/837,161 filed 10 Aug 2006 (HHS Reference No. E–205–2006/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301/435–4521; *sayyidf@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute on Aging, Laboratory of Clinical Investigation, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the use of fenoterol analogues in the treatment of cardiac disorders. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Transgenic Mouse Model that has Defective Innate and Adaptive Immunity

Description of Technology: The present research tool is a transgenic mouse model (C57BL/6 H–2^b) that has defective innate and adaptive immunity. The mouse model harbors adaptive immunity cells, but lacks normal cellular responses and has an altered pattern of antibody production. The cells of the innate immune system (NK and NKT cells) are also nearly absent.

The mouse model lacks lymph nodes. The mouse model also lacks the ability to reject autologous, allogeneic, and presumably xenogeneic cells. The mouse model also has a defective antibody production mechanism, making only early antibodies (IgM) and little, if any, mature isotypes (G2a, G2b).

Applications and Modality:

1. New mouse model to study human tumors.
2. New mouse model to study immune function reconstitution.
3. New mouse model to study the development of lymph nodes and role of lymph nodes in the disease process.
4. Most mouse or human progenitor cells can be transferred to and engraft in the mouse model.

Market:

1. In 2006, 600,000 estimated deaths from cancer related diseases.
2. Immunotherapy market is expected to double in the next 5 years.
3. Research tool useful for adoptive immunotherapy studies.

Development Status: The technology is a research tool.

Inventor: John R. Ortaldo (NCI).

Related Publications:

1. JJ Subleski, VL Hall, TC Back, JR Ortaldo, RH Wiltrout. Enhanced antitumor response by divergent modulation of natural killer and natural killer T cells in the liver. Cancer Res. 2006 Nov 15;66(22):11005–11012.
2. JR Ortaldo, A Mason, J Willette-Brown, FW Ruscetti, J Wine, T Back, T Stull, EW Bere, L Feigenbaum, R Winkler-Pickett, and HA Young. Modulation of lymphocyte function with inhibitory CD2: Loss of NK and NKT function. Submitted to Blood (2/2007).

Patent Status: HHS Reference No. E–290–2005/0—Research Tool. This technology is not patented. The mouse model will be transferred through a Material Transfer Agreement (for not-for-profit institutions) or through a Biological Materials License (commercial entities).

Licensing Status: Available for non-exclusive licensing.

Licensing Contact for Commercial Entities: Thomas P. Clouse; 301/435–4076; *clousetp@mail.nih.gov.*

Material Transfer Agreement Contact for Not-For-Profit Institutions: Kathy Higinbotham; 301/846–5465; *higinbok@mail.nih.gov.*

Dissection Tools and Methods of Use

Description of Technology: Available for licensing is a dissection tool for cutting cell aggregates into smaller portions for further colony propagation. It is comprised of a handle attached to a rotatable shaft fitted with a cutting blade. The technology describes a safe and practical device that provides maximum product yield by preventing material from accumulating between the cutting surfaces. It also provides for more uniform cut colonies using lesser number of cuts than existing stem cell cutting instruments.

Applications: Makes possible the sectioning of cultured embryonic stem cells into smaller fractions for their transfer to new culture medium and subsequent incubation.

Market: Researchers worldwide who utilize cultured embryonic stem cells.

Inventors: Soojung Shin (NIA).

Patent Status: U.S. Provisional Application No. 11/531,972 filed 14 Sep 2006 (HHS Reference No. E–272–2005/0–US–01).

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301/435–4521; *sayyidf@mail.nih.gov.*

Dated: April 9, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–7108 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The 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 Cancer Institute Special Emphasis Panel, SPORE in GI and Head & Neck Cancers.

Date: June 11–12, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shamala K. Srinivas, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8123, Bethesda, MD 20892, 301–594–1224, *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee G—Education.

Date: June 26–27, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Sonya Roberson, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8109, Bethesda, MD 20892, 301–594–1182, *robersos@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, R25 Special Emphasis Panel (SEP).

Date: June 26, 2007.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Robert Bird, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8113, Bethesda, MD 20892–8328, 301–496–7978, *birdr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Prevention Research Small Grant Program (R03).

Date: June 28–29, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Irina V. Gordienko, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7073, MS 2829, Bethesda, MD 20892, 301–594–1566, *gordienkoiv@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee H—Clinical Groups.

Date: July 9–10, 2007.

Time: 1 p.m. to 11 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Mirage I & II, Washington, DC 20007.

Contact Person: Timothy C. Meeker, MD, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8103, Bethesda, MD 20892, (301) 594–1279, *meekert@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: April 5, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1848 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 5, 2007, 12 p.m. to March 5, 2007, 4 p.m. National Institutes of Health, 6130 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on January 11, 2007, 72 FR1335.

The meeting notice is changed to reflect the date change from March 5, 2007 to April 13, 2007. The meeting is closed to the public.

Dated: April 5, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1849 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the Sickle Cell Disease Advisory Committee.

The meeting will be open to the public, 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.

Name of Committee: Sickle Cell Disease Advisory Committee.

Date: June 4, 2007.

Time: 8:30 a.m. to 4 p.m.

Agenda: Discussion of Programs and Issues.

Place: National Institutes of Health, Rockledge 6700, 6700A Rockledge Drive, Room 354, Bethesda, MD 20817.

Contact Person: Robert B. Moore, PhD, Health Scientist Administrator, Blood Diseases Program, Division of Blood Disease and Resources, National Heart, Lung, and Blood Institute, NIH, 6701 Rockledge Drive, Room 10162, Bethesda, MD 20892, 301/435-0050.

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.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 5, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1844 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel, Physician Scientist Award (K112).

Date: May 30, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington, DC North, 620 Perry Parkway, Boardroom, Gaithersburg, MD 20877.

Contact Person: Shelley S. Sehnert, PhD., Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301–435–0303, *ssehnert@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mentored Clinical Scientist Development and Independent Scientist Awards.

Date: June 12–13, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Arl Crystal City/Reagan National Airport, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Blaine B. Moore, PhD., Health Scientist Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892, 301–435–0050, *mooreb@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Project in Gene Environment Interactions.

Date: June 20, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton College Park, 4095 Powder Mill Road, Beltsville, MD 20705.

Contact Person: Keary A. Cope, PhD., Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–222, *copeka@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 06, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1851 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group, NHLBI Institutional Training Mechanism Review Committee.

Date: June 11, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Charles Joyce, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839 Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 6, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1852 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group, Heart, Lung, and Blood Program Project Review Committee.

Date: June 14, 2007.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton College Park, 4095 Powder Mill Road, Beltsville, MD 20705.

Contact Person: Jeffery H. Hurst, PHD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7208, Bethesda, MD 20892–7924, 301–435–0303, *hurstj@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and

Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 6, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1853 Filed 4–13–07; 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 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 Allergy and Infectious Diseases Special Emphasis Panel; Teleconference Review of A Revised Stem Cell Therapy Program Project Application.

Date: May 2, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Quirijn Vos, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2666, *gvos@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Clinical Trials (U01).

Date: May 4, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Brenda Lange-Gustafson, PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 3122, 6700–B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–3684, *bgustafson@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Unsolicited Antimicrobial Resistance P01 Application Review.

Date: May 16, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Room 3123, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Alec Ritchie, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID/DHHS, 6700B 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: April 5, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1843 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 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 contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Rodent Drug Discrimination and Locomotor Activity Testing.

Date: April 25, 2007.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Courtyard by Marriott Rockville, 2500 Research Boulevard, Rockville, MD 20850.

Contact Person: Nadine Rogers, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–402–2105, *rogersn2@nida.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. 93.279, Drug Abuse and Addition Research Programs, National Institutes of Health, HHS)

Dated: April 5, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1845 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Drug Abuse Special Emphasis Panel, April 18, 2007, 9 a.m. to April 19, 2007, 5 p.m., Courtyard by Marriott Rockville, 2500 Research Boulevard, Rockville, MD, 20850 which was published in the **Federal Register** on March 28, 2007, Volume 72, Number 59.

The date of the meeting was changed to May 9–10, 2007. The meeting is closed to the public.

Dated: April 5, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1846 Filed 4–13–07; 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 Development Special Emphasis Panel, Loan Repayment.
Date: April 18, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate applications.
Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20892, (Virtual Meeting).
Contact Person: Sathasiva B. Kandasamy, Phd., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.65, 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: April 5, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1847 Filed 4–13–07; 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 Special Emphasis Panel, ''Stimulus Control in Mental Retardation''.
Date: April 27, 2007.
Time: 9 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@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: April 5, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1850 Filed 4–13–07; 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 section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–56, Review R21s.
Date: May 7, 2007.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
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 4AN38F, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–49, Review R01.
Date: May 8, 2007.
Time: 9 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Rockville, MD 20852.
Contact Person: Lynn M King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–32F, National Inst. of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–594–5006, *lynn.king@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–55, Review R21s.
Date: May 8, 2007.
Time: 3 p.m. to 4 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 4AN38F, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–54, Review R21.
Date: May 9, 2007.
Time: 3 p.m. to 4 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 4AN38F, Bethesda, MD 20892–6402, (301) 594–4809, *mary_kelly@nih.gov.*

Name of Committee: National Institute for Dental and Craniofacial Research Special Emphasis Panel, 07–44, Review RFA DE–07–008.
Date: May 22, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Double Tree Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Peter Zelazowski, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, National Inst. of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 593–4861, *peter.zelazowski@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–53, Review PAR06–211 R03s.
Date: May 24, 2007.
Time: 1 p.m. to 4 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: Yujing Liu, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN38E, Bethesda, MD 20892, (301) 594–3169, *yujing_liu@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 07–57, Review R21.

Date: June 19, 2007.

Time: 11 a.m. to 12 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 4AN38F, 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: April 6, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1855 Filed 4–13–07; 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 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, National Institute of Dental and Craniofacial Research.

The meeting will be closed to the public as indicated below 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 of Dental & Craniofacial Research, 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, National Institute of Dental and Craniofacial Research; Oral Infection and Immunity Branch.

Date: June 6–8, 2007.

Time: June 6, 2007, 7 p.m. to 9 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: DoubleTree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: June 7, 2007, 8 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 30, 30 Convent Drive, Conference 117, Bethesda, MD 20892.

Time: June 8, 2007, 8 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, Building 30, 30 Convent Drive, Conference 117, Bethesda, MD 20982.

Contact Person: Norman S Braveman, Assistant to the Director, NIH–NIDCR, 31 Center Drive, Bldg. 31, Room 5B55, Bethesda, MD 20892, 301 594–2089, *norman.braveman@nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about/CouncilCommittees.asp,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 6, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1856 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cell Structure and Function Study Section, June 7, 2007, 8 a.m. to June 8, 2007, 5:30 p.m., Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231, which was published in the **Federal Register** on April 5, 2007, 72 FR 16805–16806.

The meeting will be held one day only June 7, 2007, 8 a.m. to 7 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: April 9, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1841 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Arthritis, Connective Tissue and Skin Study Section.

Date: May 17–18, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Aftab A. Ansari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 594–6376, *ansaria@csr.ni.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurobiology of the Circadian Clock.

Date: May 21, 2007.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018, *debbasg@csr.ni.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Addiction.

Date: May 22–23, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.ni.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, National Longitudinal Study of Adolescent Health Program Project Supplement.
Date: May 22, 2007.
Time: 12:30 p.m. to 1:30 p.m.
Agenda: To review and evaluate applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Valerie Durrant, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 435–3554, *durrant@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurobiology of Sleep and the IL 1R1 Promotor Complex.
Date: May 23, 2007.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018, *debbasg@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Pathogenic Eukaryotes Study Section.
Date: June 7–8, 2007.
Time: 8:30 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: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3194, MSC 7808, Bethesda, MD 20892, (301) 435–1146, *hickmanj@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 9, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1842 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 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: Center for Scientific Review Special Emphasis Panel, IRAP Member Conflict Review.
Date: April 24, 2007.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Scott Osborne, MPH, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782, *osbornes@csr.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: Center for Scientific Review Special Emphasis Panel, Novel Cancer Therapies.
Date: April 30, 2007.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, (301) 435–1767, *gubanics@csr.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: Center for Scientific Review Special Emphasis Panel, *Member Conflict:* Anterior Eye.
Date: May 2, 2007.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Rene Etcheberrigaray MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *etcheber@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurobiology of Learning and Memory Study Section.
Date: May 31–June 1, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *driscolb@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group, Gastrointestinal Cell and Molecular Biology Study Section.
Date: June 3–4, 2007.
Time: 6:30 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Najma Begum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, (301) 435–1243, *begumn@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Cardiac Contractility, Hypertrophy, and Failure Study Section.
Date: June 5–6, 2007.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Olga A. Tjurmina, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4030B, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 6, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–1854 Filed 4–13–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5123–N–10]

Notice of Proposed Information Collection for Public Comment on Updating the Low-Income Housing Tax Credit Database

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 15, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Michael Hollar, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708–0426 (this is not a toll-free number). Copies of the proposed data collection instruments and other available documents may be obtained from Mr. Hollar.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Updating the Low-Income Housing Tax Credit Database.

Description of the need for the information and proposed use: Section 42 of the I.R.C. provides for Low-Income Housing Tax Credits (LIHTC) that encourages the production of qualified low-income housing units. Due to the decentralized nature of the LIHTC program, there are few data available on the units that are currently being developed with this federal tax subsidy. The Department of Housing and Urban Development, while not responsible for administering tax credits, has special responsibilities in understanding and evaluating credit usage, both because the LIHTC helps provide for the housing needs of low-income persons and because credits work in conjunction with HUD subsidies in some units. Absent this data collection, HUD will not have at its disposal the most current, comprehensive LIHTC data, rendering HUD unable to determine the types of areas in which the units are located, the concentration of such units geographically and with respect to other subsidized housing types, or whether incentives to develop LIHTC units in a set of HUD designed Difficult Development Areas and Qualified Census Tracts have been effective. In addition, without these data, both HUD and private researchers will be unable to conduct sample-based studies on the LIHTC due to the difficulty of constructing a valid sample without a complete data set on the universe of LIHTC projects.

Members of affected public: Information will be solicited from the 59 agencies (predominantly state-level) that allocate credits under section 42 of the I.R.C.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents: 59.

Number of responses per respondent: 01.

Total number of responses per annum: 59.

Hours per response: 24.

Total hours: 1,416.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 5, 2006.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

[FR Doc. E7–7089 Filed 4–13–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5146–N–01]

Notice of Proposed Information Collection: Comment Request; Employee Questionnaire and Complaint Intake

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 15, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410 or *Lillian_L._Deitzer@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of Labor Relations, Department of Housing and Urban Development, 451 7th Street, SW., Room 2102, Washington, DC 20410 or *Jade_M._Banks@hud.gov*, telephone (202) 402–5475 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Employee Questionnaire and Complaint Intake.

OMB Control Number, if applicable: 2501–0018.

Description of the need for the information and proposed use: HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include contacting laborers and mechanics and requesting information about their employment on covered projects. In addition, HUD and local agencies may be contacted by the workers or by others who wish to file a complaint of labor standards violation(s). HUD and local agencies have used many formats to collect worker information and to record complainant information. HUD proposes to standardize and institute two forms for these collections: an employee questionnaire (in English, Spanish, and electronic versions) and a complaint intake form. The questionnaire may be mailed to employees or may be otherwise provided to them to complete and return to HUD or the local agency. The questionnaire is also available on-line through HUD's Web site. This version can be completed on-screen for electronic submission or it can be printed for hard-copy submission. Complaint intake forms will be used by HUD and local agency personnel to record information provided by complainants about the nature of the alleged violation(s). Both forms may be supplemented with additional pages, as needed. Responses and the provision of supplemental information are voluntary on the part of questionnaire respondents. Questionnaire responses and complaint intake forms must be retained by the HUD and local agencies to document the sufficiency of enforcement efforts.

Agency form numbers, if applicable: Forms HUD–4730, HUD–4370E, HUD–4370SP; and HUD–4731.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Item	Number of respondents	Amount of time required (hours)	Total time required (in hrs.)/ annum
HUD–4730 (including 4730E and 4730SP)	2,000	.25–.5	500–1,000
HUD–4731	500	.25–.5	125–250
Record keeping	2,500	1	2,500
Total Annual Burden			3,125–3,750

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 9, 2007.

Edward L. Johnson,

Director, Office of Labor Relations.

[FR Doc. E7–7091 Filed 4–13–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5146–N–02]

Notice of Proposed Information Collection: Comment Request Semi-annual Labor Standards Enforcement Report

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 15, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410 or *Lillian_L._Deitzer@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of Labor Relations, Department of Housing and Urban Development, 451 7th Street, SW., Room 2102, Washington, DC 20410 or *Jade_M._Banks@hud.gov*, telephone (202) 402–5475 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Semi-annual Labor Standards Enforcement Report.

OMB Control Number, if applicable: 2501–0019.

Description of the need for the information and proposed use: All Federal agencies administering programs subject to Davis-Bacon wage provisions are required by Department of Labor (DOL) regulations (29 CFR Part 5, Section 5.7(b)) to submit a report of all new covered contracts/projects and all enforcement activities each six months. In order for HUD to comply with this requirement, it must collect contract and enforcement information from local agencies that administer HUD-assisted programs subject to Davis-Bacon requirements. HUD requests that local agencies complete and submit a Semi-annual Enforcement Report each six months.

Local agencies and HUD must retain a copy of the Semi-annual Enforcement Report in its files.

Agency form numbers, if applicable: Forms HUD–4710, HUD–4710i.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of hours needed to prepare the information collection is 9,000; the number of respondents is 4,500; the frequency of response is semi-annually; and the hours per response is 2. Recordkeeping requirements add an addition 2,250 hours for a total of 11,250 hours per year.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 9, 2007.

Edward L. Johnson,

Director, Office of Labor Relations.

[FR Doc. E7–7093 Filed 4–13–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Notice of Natural Resource Damage Assessment and Restoration Advisory Committee Meeting

AGENCY: Office of the Secretary, Natural Resource Damage Assessment and Restoration Program Office, Department of the Interior.

ACTION: Notice; FACA Committee Meeting Announcement.

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Department of the Interior, Natural Resource Damage Assessment and Restoration Program Office gives notice of the upcoming meeting of the Department's Natural Resource Damage Assessment and Restoration Advisory Committee. The Advisory Committee will meet in the Rio Grande Room in Building 67 on the Denver Federal Center from 8:30 a.m. to 5 p.m. mountain time on May 1, May 2, and May 3, 2007. Members of the public are invited to attend the Committee Meeting to listen to the committee proceedings and to provide public input. If the Committee reaches closure on the final report, which contains the Committee's recommendations to the Department, the meeting will adjourn early and not be held on subsequent days. If the report is not finalized by the time of adjournment on May 3, the Committee will meet on May 15–17 at the U.S. Fish and Wildlife Service Building in Lakewood, Colorado. Notices will be posted after May 3 on the Department's Web site at *http://restoration.doi.gov/faca* and in the **Federal Register** to inform the public if the May 15–May 17 meeting will be cancelled.

Public Input: Any member of the public interested in providing public input at the Committee Meeting should contact Ms. Barbara Schmalz, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Each individual providing oral input is requested to limit those comments to three minutes. This time frame may be adjusted to accommodate all those who would like to speak. Requests to be added to the public speaker list must be received in writing (letter, e-mail, or fax) by noon mountain time on April 20, 2007. Anyone wishing to submit written comments should provide a copy of those comments to Ms. Schmalz in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file formats are: Adobe Acrobat, WordPerfect, Word, or Rich Text files) by noon mountain time on April 20, 2007.

Document Availability: In preparation for this meeting of the Advisory Committee, the Committee and the public can find helpful background information at the Restoration Program Web site *http://restoration.doi.gov.* The site provides a good introduction to the program for those who are relatively new to the damage assessment and restoration arena and a useful reference for seasoned practitioners and policy leaders. Links to the statutory and regulatory framework for the program are found at *http://restoration.doi.gov/laws.htm.* DOI Program policies are found at *http://restoration.doi.gov/policy.htm.* Minutes from prior Committee meetings, subcommittee reports and presentations, reference materials, and the draft final Committee report are all available online at *http://restoration.doi.gov/faca.*

Agenda for Meeting:

The agenda will cover the following principal subjects:

—Formal public input (if any).
—Discussion of draft final committee report.
—Finalizing committee report.
—Develop schedule (if needed) for next Committee meeting.

We estimate that discussion of the draft final Committee report and finalizing the report will take between two and three full days. Timeframes for the discussions will remain flexible. The chair, in consultation with the Designated Federal Officer, will determine appropriate times for breaks and for adjourning each day.

Meeting Access: Individuals requiring special accommodation at this meeting must contact Ms. Barbara Schmalz (see contact information below) by noon mountain time on April 20, 2007, so that appropriate arrangements can be made.

DATES: May 1, 2007, from 8:30 a.m. to 5 p.m. mountain time (open to the public);

May 2, 2007, from 8:30 a.m. to 5 p.m. mountain time (open to the public);

May 3, 2007, (if necessary) from 8:30 a.m. to 5 p.m. mountain time (open to the public);

If necessary, May 15, 2007, from 8:30 a.m. to 5 p.m. mountain time (open to the public);

If necessary, May 16, 2007, from 8:30 a.m. to 5 p.m. mountain time (open to the public);

If necessary, May 17, 2007, from 8:30 a.m. to 5 p.m. mountain time (open to the public).

ADDRESSES: May 1–May 3, 2007. Rio Grande Room, Mezzanine Level, Building 67, Denver Federal Center, 6th Avenue & Kipling, Denver, CO 80225.

May 15–May 17, 2007 (if needed). U.S. Fish and Wildlife Service, 1st floor Conference Room, 134 Union Boulevard, Lakewood, CO 80228.

On May 1–3, all individuals attending the Committee Meeting will need to present photo identification to the entry gate security officers to gain access to the Denver Federal Center. Attendees will need to use the south entrance to Building 67 and present photo identification to the building security officers to gain access to Building 67. If further meetings are needed May 15–17 to finalize the report, attendees will need to call 720–219–8868, from the phone pad at the front entrance of the Fish and Wildlife Service building or from a personal cell phone, to be met and escorted into the building and to the meeting room.

FOR FURTHER INFORMATION CONTACT: Barbara Schmalz, U.S. Department of the Interior, Denver Federal Center, 6th Avenue & Kipling, Building 56 Room 2400 Mail Stop D–110, Denver, CO, 80225–0007; phone 303–445–3883; fax 303–445–3887 or *barbara_schmalz@ios.doi.gov.*

Dated: April 10, 2007.

Frank M. DeLuise,

Designated Federal Officer, DOI Natural Resource Damage Assessment and Restoration Advisory Committee.

[FR Doc. E7–7104 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final Comprehensive Conservation Plan for Horicon and Fox River National Wildlife Refuges (NWRs) Dodge, Fond du Lac, and Marquette Counties, WI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service announces that the Final Comprehensive Conservation Plan (CCP) is available for Horicon and Fox River NWRs, Wisconsin.

The CCP was prepared pursuant to the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969. Goals and objectives in the CCP describe how the agency intends to manage the refuge over the next 15 years.

ADDRESSES: Copies of the Final CCP are available on compact disk or hard copy. You may obtain a copy by writing to: U.S. Fish and Wildlife Service, Division of Conservation Planning, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111 or you may access and download a copy via the planning Web site at *http://www.fws.gov/midwest/planning/horicon.*

FOR FURTHER INFORMATION CONTACT: Patti Meyers, (920) 387–2658.

SUPPLEMENTARY INFORMATION: The 21,417-acre Horicon NWR was established in 1941 through land purchases approved by the Migratory Bird Conservation Commission. The 1,004-acre Fox River NWR is administered by the Horicon staff and was established by the Director in October 1978. The southern one-third of the Horicon Marsh is managed by the Department of Natural Resources and their land managers actively participated in the development of the CCP.

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee *et seq.*), requires the Service to develop a CCP for each National Wildlife Refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction for conserving wildlife and their habitats, the CCP identifies wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update these CCPs at least every 15 years.

Management of the Refuges for the next 15 years will focus on: (1) Improving the long-term sustainability of wildlife habitats; (2) increasing opportunities for wildlife-dependent recreation; and (3) strengthening and expanding partnerships with government agencies, organizations, and communities.

This document was received at the Office of the Federal Register on April 11, 2007.

Dated: December 8, 2006.

Charles M. Wooley,

Acting Regional Director, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. E7–7109 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Indiana Bat Recovery Plan, First Revision; Draft Survey Protocol

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce availability of the draft revised recovery plan and draft survey protocol for the Indiana bat (Myotis sodalis) for public review and comment. This species is federally listed as endangered under the Endangered Species Act of 1973, as amended (Act).

DATES: In order to consider your comments on the draft recovery plan and draft survey protocol, we must receive them on or before July 16, 2007.

ADDRESSES: *Recovery Plan:* You may obtain a copy of the recovery plan by any of the following means:

1. World Wide Web: *http://midwest.fws.gov/endangered;* or

2. U.S. mail or in-person pickup: Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 620 South Walker Street, Bloomington, IN 47403–2121.

You may submit electronic comments on the recovery plan to this e-mail address: *ibat_recovery_plan@fws.gov.*

Draft Survey Protocol: The draft survey protocol is available at *http://www.fws.gov/midwest/endangered/mammals/ibat_srvyprtcl.html;* this Web page also provides instructions and addresses for submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Lori Pruitt, by U.S. mail or e-mail (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals or plants is a primary goal of our endangered species program. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for delisting species, and provide estimates of the time and cost for implementing the measures needed for recovery.

The Act (16 U.S.C. 1531 et seq.) requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that we provide public notice and opportunity for public review and comment during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies all also take these comments into consideration in the course of implementing approved recovery plans.

The species was originally listed as in danger of extinction under the Exchanged Species Preservation Act of 1966. The original recovery plan for the species was published in 1983; this is the first recovery plan revision. As of October 2006, the Service had records of extant winter populations at approximately 281 hibernacula in 19 states and 269 maternity colonies in 16 states. The 2005 winter census estimate of the population was 457,000.

During winter, Indiana bats are restricted to suitable underground hibernacula. The vast majority of these sites are caves located in karst areas of the east-central United State; however, Indiana bats also hibernate in other cave-like locations, including abandoned mines. Most Indiana bats hibernate in caves or mines where the ambient temperature remains below 10° C but infrequently drops below freezing, and the temperature is relatively stable. In summer, most reproductive females

occupy roost sites under exfoliating bark of dead trees that retain large, thick slabs of peeling bark. These trees are typically within canopy gaps in a forest, in a fenceline, or along a wooded edge. Habitats in which maternity roosts occur include riparian zones, bottomland and floodplain habitats, wooded wetlands, and upland communities. Indiana bats typically forage in semi-open to closed forested habitats, forest edges, and riparian areas.

Threats to the Indiana bat vary during its annual cycle. At the hibernacula, threats include modifications to caves, mines, and surrounding areas that change airflow and alter microclimate in the hibernacula. Human disturbance and vandalism pose significant threats during hibernation through direct mortality and by inducing arousal and consequent depletion of fat reserves. Natural catastrophes can also have a significant effect during winter because of the concentration of individuals in a relatively few sites. During summer months, possible threats relate to the loss and degradation of forested habitat. Migration pathways and swarming sites may also be affected by habitat loss and degradation. In addition to these threats, significant information gaps remain regarding the species' ecology that hinder sound decision-making on how best to manage and protect the species.

The objective of the recovery plan is to provide a framework for the recovery of Indiana bat so that protection by the Act is no longer necessary. We may consider Indiana bat for classification from Endangered to Threatened status when the likelihood of the species becoming extinct in the foreseeable future has been precluded by achievement of the following criteria: (1) Permanent protection of a minimum of 80 percent of Priority-1 hibernacula in each of four Recovery Units (Ozark-Central, Midwest, Appalachian Mountains, and Northeast), with a minimum of one Priority-1 hibernaculum protected in each unit; (2) A minimum overall population estimate equal to the 2005 population estimate of 457,000; and (3) Documentation that shows important hibernacula within each Recovery Unit have a positive annual population growth rate over the next 10-year period (i.e., five survey periods).

We will consider Indiana bat for delisting when the likelihood of the species becoming threatened in the foreseeable future has been reduced by the achievement of the following criteria: (1) Permanent protection of a minimum of 50 percent of Priority-2 hibernacula in each Recovery Unit: (2) A minimum overall population estimate equal to the 2005 population estimate of 457,000; and (3) Documentation that shows a positive population growth rate within each Recovery Unit over an additional five sequential survey periods (i.e., 10 years). If research on summer habitat requirements indicates the quality or quantity of maternity habitat is threatening recovery of the species, the Service will amend these criteria. Additional details on reclassification and delisting criteria are available in the recovery plan.

We will meet these criteria through the following actions: (1) Conserving and managing hibernacula and their winter populations, (2) Conserving and managing summer habitat to maximize survival and fecundity, (3) Planning and conducting research essential for recovery, and (4) Developing and implementing a public information and outreach program.

In addition to seeking comments on the content of the entire recovery plan, we request any information on the appropriate scope and breadth of this recovery plan as it relates to the inclusion of available science for summer habitat. Furthermore, we are seeking any information related to hybridization that may be occurring with other bats within the range of Indiana bat. We are interested to know about this, the extent of such hybridization and its potential to affect the Indiana bat as a species. We also request information about the use of records of captured individuals to describe the summer, winter and maternity distribution of the species. In addition to soliciting comment on the recovery plan, we are seeking comment on a draft survey protocol for determining presence or probable absence of Indiana bats at cave portals or abandoned mines that could serve as hibernacula. Our goal is to incorporate comments and finalize the draft survey protocol in time to be included in the approved Indiana Bat Recovery Plan. The draft survey protocol, with instructions for commenting, is available on the Internet (see **ADDRESSES**).

Public Comments Solicited

The Service solicits written comments on the recovery plan and the draft survey protocol. All comments received by the date specified will be considered prior to approval of the plan. Written comments and materials regarding the draft recovery plan should be addressed to the Field Supervisor (see **ADDRESSES**). Comments and materials received about the draft recovery plan will be available by appointment for public inspection during normal business hours at the above address. For information on commenting on the draft survey protocol, see **ADDRESSES**.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 4, 2007.

Lynn Lewis,

Deputy Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 07–1866 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Seal Beach National Wildlife Refuge, Seal Beach, Orange County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; announcement of public open house meetings; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, we), intend to gather information necessary to prepare a comprehensive conservation plan (CCP) and associated environmental documents for the Seal Beach National Wildlife Refuge (NWR). We furnish this notice in compliance with our CCP policy to advise other agencies and the public of our intentions, and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: To ensure consideration, we must receive your written comments by May 18, 2007. Two public open house meetings will be held during the scoping phase of the comprehensive conservation plan development process. Special mailings, newspaper articles, and other media announcements will be used to inform the public and Tribe, state, and local governments of the dates and opportunities for input throughout the planning process.

ADDRESSES: Send your comments or requests for more information to Victoria Touchstone, Refuge Planner, San Diego National Wildlife Refuge Complex, 6010 Hidden Valley Road, Carlsbad, CA 92011; telephone: 760–431–9440 ex. 349; fax: 760–930–0256; or electronic mail: *Victoria_Touchstone@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Victoria Touchstone, Refuge Planner, San Diego NWR Complex, 760–431–9440 extension 349.

SUPPLEMENTARY INFORMATION: With this notice, we initiate the CCP for the Seal Beach NWR with headquarters in Carlsbad, CA. Additional information is available by visiting the Refuge Planning section of the San Diego NWR Complex Web site at *http://sandiegorefuges.fws.gov*.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose of developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, which may include opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

We establish each unit of the National Wildlife Refuge System, including the Seal Beach NWR, with specific purposes. We use these purposes to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission, and to guide which public uses will occur on these Refuges. The planning process is a way for us and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with the Refuge's establishing purposes and the mission of the National Wildlife Refuge System.

We will conduct a comprehensive conservation planning process that will provide opportunities for Tribal, State, and local governments; agencies; organizations; and the public to participate in issue scoping and comment. You are encouraged to provide your input on issues, concerns, ideas, and suggestions for the future management of the Seal Beach NWR in Seal Beach, CA. The input provided during the scoping process will help us answer questions such as:

1. What problems or issues should be addressed in the CCP?
2. What changes or additions would improve conditions on the Seal Beach NWR?

Our Planning Team will take into consideration all of the comments it receives as part of the scoping process; however, we will not reference individual comments in our reports.

We will also give the public an opportunity to provide input at the open houses we have scheduled to scope issues and concerns. You may also submit written comments anytime during the planning process by mailing or e-mailing them to the above address.

We will conduct the environmental review of this project in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those regulations. All comments we receive from individuals on our environmental assessments and environmental impact statements become part of the official public record.

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

All information provided voluntarily by mail, phone, or at public meetings becomes part of our official public record (*i.e.*, names, addresses, letters of comment, input recorded during meetings). If a private citizen or organization requests this information under the Freedom of Information Act, we may provide informational copies.

Seal Beach NWR

Seal Beach NWR is located about 25 miles south of downtown Los Angeles in northwestern Orange County, California. The approximately 965-acre Refuge overlays a portion of Naval Weapons Station Seal Beach (NWSSB) and is situated between the City of Seal Beach to the north and west and the City of Huntington Beach to the south and east.

Congress authorized the Secretary of the Interior to establish the Seal Beach NWR in Public Law 92–408 on August 29, 1972. The Secretary of the Interior, with the advice and consent of the Secretary of the Navy, established the Refuge on July 11, 1974. The Refuge was established to provide for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds that are threatened with extinction.

Protected within the Refuge is one of the largest remaining salt marshes along the southern California coast. These coastal wetlands support three federally listed species including the endangered California brown pelican, light-footed clapper rail, and California least tern. The state listed endangered Belding's savannah sparrows, along with the light-footed clapper rail and California least tern, nest and raise their young within the boundaries of the Refuge.

As a refuge that overlays a Naval Weapons Station, Seal Beach NWR must be managed in a manner that considers both the mission of the National Wildlife Refuge System and the mission of the Naval Weapons Station. To that end, we will be coordinating with the Navy in the development of the CCP for Seal Beach NWR. The Navy has also been coordinating with us in the development of its Integrated Natural Resources Management Plan for NWSSB.

Preliminary Issues, Concerns, and Opportunities

During the initial pre-planning phase of the CCP process, we identified a number of issues, concerns, and opportunities that may be addressed in the CCP. We have briefly summarized these issues below. We will likely identify additional issues as a result of the public scoping process.

Habitat Management: Measures necessary to preserve or improve the quality of the Refuge's coastal salt marsh habitat, which is influenced by such factors as subsidence, limited freshwater flows, and sea level rise, should be evaluated during the planning process.

Endangered Species Recovery: Listed species that nest on Seal Beach NWR could benefit from an evaluation of the management actions currently implemented to improve reproductive success for these species.

Erosion: Appropriate measures for remediating ongoing erosion problems along the banks and tidal channels of restored salt marsh habitat on the Refuge should be evaluated as part of the CCP process.

Public Use: Understanding that as an overlay refuge, public uses cannot compromise the mission of the Naval Weapons Station, are there opportunities for improving the current public use program on the Refuge?

Dated: April 10, 2007.

Ken McDermond,

Acting Manager, California/Nevada Operations, Sacramento, CA.

[FR Doc. E7–7117 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–120–06–1610-AL]

Notice of Availability (NOA) of the Socorro Draft Resource Management Plan Revision and Draft Environmental Impact Statement (DRMPR/DEIS), New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 *et seq.*), and Bureau of Land Management (BLM) planning regulations, the BLM hereby gives notice that the Socorro DRMPR/DEIS is available for public review and comment.

DATES: To ensure that they will be considered, BLM must receive written comments on the DRMPR/DEIS within 90 days following the date the Environmental Protection Agency publishes its NOA in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, local media, and/or mailings.

ADDRESSES: Written comments may be mailed to Socorro Field Office, Attention: Brian Bellew, 901 S. Highway 85, Socorro, New Mexico 87801. You may also comment via e-mail at: *Brian_Bellew@nm.blm.gov*; or by fax at (505) 835–0223. Comments that are e-mailed or faxed must include ''Comments on Draft RMPR/DEIS'' in the subject line. You may also hand deliver comments to the address listed above. A minimum of two public meetings will be held during the 90-day public review and comment period during which oral comments will be accepted and recorded. Exact dates, places, and times of public meetings will be posted on the New Mexico BLM web page (*http://www.nm.blm.gov*) and advertised in local media.

Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Brian Bellew, Planning Team Leader, at the Socorro Field Office (see address above), telephone (505) 838–1273.

SUPPLEMENTARY INFORMATION: The planning area encompasses all lands, regardless of jurisdiction, within Socorro and Catron counties, New Mexico totaling 8.7 million acres. A map of the planning area is available on the Web site (*http://www.nm.blm.gov*). The decision area for the DRMPR/DEIS includes 1.5 million acres of BLM-administered public lands and 6.1 million acres of Federal mineral estate located in both counties.

The DRMPR/DEIS describes the physical, cultural, historic, and socioeconomic resources in and around the planning area and documents the direct, indirect, and cumulative environmental impacts of four alternatives for BLM-administered lands and resources within the planning area. The impact analysis focuses on resource issues and concerns identified during scoping and public involvement activities. Issues identified during scoping (not in priority order) include areas of special designation, soil and vegetation conditions, energy development, transportation and access, land use, and recreation and heritage tourism opportunities.

Four alternatives were analyzed in detail. The No-Action Alternative, Alternative A represents the continuation of existing management, which is defined by the 1989 Socorro RMP and subsequent amendments. Alternative B, BLM's preferred alternative, proposes managing the public lands for multiple uses and sustaining the health, diversity, and productivity of the lands for present and future generations. Alternative C emphasizes resource protection, while Alternative D emphasizes commodity production and use while still complying with applicable law, regulation, and BLM policy. Within all alternatives, Areas of Critical Environmental Concern (ACECs) have been identified to protect resources. These ACECs and associated acreages are listed in the table below. More detailed management prescriptions in these areas are provided in Table 2–2 of the DRMPR/DEIS.

ACRES OF BLM-MANAGED SURFACE ESTATE PROPOSED TO BE MANAGED AS ACECS UNDER THE ALTERNATIVES IN THE DRMPR/DEIS

ACEC use limitations	Alternative A	Preferred alternative (Alternative B)	Alternative C	Alternative D
Agua Fria	9,571	Incorporate into Cerro Pomo ACEC.	Incorporate into Zuni Salt Lake ACEC.	Eliminate.
Cerro Pomo: Limit motor vehicle travel to designated routes. Exclude ROW. Apply fluid mineral leasing stip. S–VRM–11.		26,284	Incorporate into Zuni Salt Lake ACEC.	449.
Horse Mountain: Limit motor vehicle travel to designated routes. Exclude ROW. Apply fluid mineral leasing stip. S–NSO–W. Exclude vegetative material sales. Exclude grazing on unalloted lands.	7,490	5388	5388	2596.

ACRES OF BLM-MANAGED SURFACE ESTATE PROPOSED TO BE MANAGED AS ACECS UNDER THE ALTERNATIVES IN THE DRMPR/DEIS—Continued

ACEC use limitations	Alternative A	Preferred alternative (Alternative B)	Alternative C	Alternative D
Ladron Mountain-Devil's Backbone Complex: Limit motor vehicle travel to designated routes. Exclude ROW. Apply fluid mineral leasing stip. S–NSO–W. Exclude grazing on unalloted lands. Withdraw from location and entry for locatable minerals on 23,567 for protection of desert bighorn sheep. Exclude vegetative material sales from San Lorenzo Canyon (2320 acres).	57,195	57,474	57,474	20,155.
Mockingbird Gap: Limit motor vehicle travel to designated routes, apply fluid mineral leasing stip. S–CSU–C3.		8,685	8,685	
Pelona Mountain: Limit motor vehicle travel to designated routes. Exclude ROW. Apply fluid mineral leasing stip S–CSU–W1 and S–VRM–11.		51,091	52,336	34,547.
Sawtooth: Limit motor vehicle travel to designated routes. Exclude ROW. Apply fluid mineral leasing stip S–NSO–T&E. Maintain withdrawal from mineral entry. Exclude vegetative material sales.	125	125	125	125.
Tinajas: Limit motor vehicle travel to designated routes. Exclude ROW. Exclude mineral material disposals and mineral leasing.	3,463	40	6745	22.
Zuni Salt Lake: Limit motor vehicle travel to designated routes. Exclude fluid mineral leasing. Withdraw locatable minerals on 2881 acres of federal mineral estate within the 4839 acre Zuni Salt Lake Protection Zone. Exclude ROW within the 4839 acre Zuni Salt Lake Protection Zone. Exclude woodcutting.	Managed as a 4,839-acre special management area.	46,746	156,601	2107.
Total Acres	77,844	195,833	287,354	68,686.

Since the publication of the Notice of Intent to prepare an RMPR/EIS in the **Federal Register** on May 8, 2002, scoping meetings, off-highway vehicle workshops, and mailings have been conducted to inform the public and solicit input. Three scoping meetings were held in Socorro, Quemado, and Zuni, New Mexico on August 27, 28, and 29, 2002, respectively, resulting in approximately 76 oral comments from the public. In addition, 214 letters and comment forms were received during the scoping period. Catron County and the Zuni Tribe are cooperating agencies for development of the RMPR/EIS.

The Socorro DRMPR/DEIS is available for review via the Internet from a link at *http://www.nm.blm.gov* and in electronic (on CD–ROM) and paper format at the BLM, Socorro Field Office. Electronic (on CD–ROM) and paper copies may also be obtained by contacting Brian Bellew at the aforementioned address and phone number.

Dated: January 30, 2007.

Jesse J. Juen,

Associate State Director.

[FR Doc. E7–7020 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–169–1220–AL]

Notice of Public Meeting, Carrizo Plain National Monument Advisory Committee and Carrizo Resource Management Plan Scoping Meeting

SUMMARY: In accordance with Federal Land Policy and Management Act of 1976 (FLPMA), the Federal Advisory Committee Act of 1972 (FACA), the National Environmental Policy Act of 1969 (NEPA), and the Code of Federal Regulations (40 CFR 1501.7, 43 CFR 1610.2), the United States Department of the Interior, Bureau of Land Management (BLM), Carrizo Plain National Monument Advisory Committee will meet as indicated below.

DATES: The meeting will be held on Saturday, May 5, 2007, at the California Valley Community Services District building on Soda Lake Road. The center is located approximately 3 miles South of Hwy. 58 adjacent to the California Valley Fire Station 42. The meeting will begin at 10 a.m. and finish at 5 p.m. The public scoping period for the planning effort will be from 10 a.m. to 12 p.m. Lunch will be available for $8.00.

SUPPLEMENTARY INFORMATION: The nine-member Carrizo Plain National Monument Advisory Committee advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of public land issues associated the public land management in the Carrizo Plain National Monument in Central California. This meeting will serve as an opportunity for the public to scope issues for the formulation of the resource management plan. This meeting is open to the public. Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact BLM as indicated below.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Attention: Johna Hurl, Monument Manager, 3801 Pegasus Drive, Bakersfield, CA 93308. Phone at (661) 391–6093 or e-mail: *jhurl@blm.gov.*

Dated: April 10, 2007.

Johna Hurl,

Manager, Carrizo Plain National Monument.

[FR Doc. E7–7112 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention to Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: The Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on an extension of a currently approved collection of information (OMB 1024–0245).

DATES: Public comments on the Information Collection Request (ICR) will be accepted on or before June 15, 2007.

ADDRESSES: Send comments to Lieutenant Dennis Maroney, Assistant Commander Human Resources Office, United States Park Police, 1100 Ohio Drive, SW., Washington, DC 20024, or via e-mail at *dennis_maroney@nps.gov.* All responses to this notice will be summarized and included in the request for the Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dennis Maroney, Assistant Commander Human Resources Office, United States Park Police, 1100 Ohio Drive, SW., Washington, DC 20024, via fax at 202–619–7479, or via e-mail at *dennis_maroney@nps.gov* or via telephone at 202–619–7413. You are entitled to a copy of the entire ICR package free of charge.

SUPPLEMENTARY INFORMATION:

Title: United States Park Police Personal History Statements Questionnaire.

Bureau Form Number(s): USPP Form 1.

OMB Number: 1024–0245.

Expiration Date: 06/30/07.

Type of Request: Extension of a currently approved information collection.

Description of Need: Executive Order 12968 established investigative standards for all United States Government civilian and military personnel. 5 CFR 7.31 established criteria and procedures for making determinations of suitability for employment in positions in competitive service. The position of a Police Officer in the United States Park Police is critical sensitive. The purpose of the United States Park Police Personal History Statement Questionnaire is to collect detailed information that will be used principally as a basis for an investigation to determine suitable applicants for the position of United States Park Police Officer. This information has an impact on individuals that apply to the position of United States Park Police Officer. The NPS uses the information that is collected to hire adequately screened applicants for the position of United States Park Police Officer.

Comments Are Invited on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Frequency of Collection: Annually.

Description of Respondents: Individual applicants to the position of United States Park Police Officer.

Estimated Number of Respondents: 600.

Estimated Average Number of Applicant Responses: 600.

Estimated Average Burden Hours per Applicant Response: 8 hours.

Estimated Annual Burden Hours: 4,800 Hours.

Dated: January 12, 2007.

Leonard E. Stowe,

NPS, Information Collection Clearance Officer.

[FR Doc. 07–1862 Filed 4–13–07; 8:45 am]

BILLING CODE 4312–JK–M

DEPARTMENT OF THE INTERIOR

National Park Service

List of Programs Eligible for Inclusion in Fiscal Year 2007 Funding Agreements To Be Negotiated With Self-Governance Tribes

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice lists programs or portions of programs that are eligible for inclusion in Fiscal Year 2007 funding agreements with self-governance tribes and lists programmatic targets pursuant to section 405(c)(4) of the Tribal Self-Governance Act.

DATES: This notice expires on September 30, 2007.

ADDRESSES: Inquiries or comments regarding this notice may be directed to the American Indian Liaison Office, 1201 Eye Street, NW., (Org. 2560, 9th Floor), Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the Indian Self-Determination Act Amendments of 1994 (Pub. L. 103–413, the ''Tribal Self-Governance Act'' or the ''Act'') instituted a permanent self-governance program at the Department of the Interior (DOI). Under the self-governance program certain programs, services, functions, and activities, or portions thereof, in DOI bureaus other than the Bureau of Indian Affairs (BIA) are eligible to be planned, conducted, consolidated, and administered by a self-governance tribal government.

Under section 405(c) of the Act, the Secretary of the Interior is required to publish annually: (1) A list of non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program; and (2) programmatic targets for these bureaus.

Under the Act, two categories of non-BIA programs are eligible for self-governance funding agreements (AFAs):

(1) Under section 403(b)(2) of the Act, any non-BIA program, service, function or activity that is administered by DOI that is ''otherwise available to Indian tribes or Indians,'' can be administered by a tribal government through a self-governance funding agreement. The Department interprets this provision to authorize the inclusion of programs eligible for self-determination contracts under Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, as amended). Section 403(b)(2) also specifies ''nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions and activities, or portions thereof, unless such preference is otherwise provided by law.''

(2) Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities or portions thereof that are of ''special geographic, historical, or cultural significance'' to a self-governance tribe.

Under section 403(k) of the Act, funding agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute establishing the existing program does not authorize the

type of participation sought by the tribe. However, a tribe (or tribes) need not be identified in the authorizing statutes in order for a program or element to be included in a self-governance funding agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, we will determine whether a specific function is inherently Federal on a case-by-case basis considering the totality of circumstances.

Response to Comments

The Office of Self-Governance requested comments on the proposed list on June 14, 2006. A number of editorial and technical changes were provided by Interior's bureaus and incorporated into this Notice. While the Notice of June 14, 2006, illustrated all eligible non-BIA programs for DOI, this Notice is particular to the National Park Service.

II. Eligible non-BIA Programs of the National Park Service

Below is a listing of the types of non-BIA programs, or portions thereof, that may be eligible for self-governance funding agreements because they are either ''otherwise available to Indians'' under Title I and not precluded by any other law, or may have ''special geographic, historical, or cultural significance'' to a participating tribe. The list represents the most current information on programs potentially available to tribes under a self-governance funding agreement.

The National Park Service will also consider for inclusion in funding agreements other programs or activities not included below, but which, upon request of a self-governance tribe, the National Park Service determines to be eligible under either sections 403(b)(2) or 403(c) of the Act. Tribes with an interest in such potential agreements are encouraged to begin such discussions.

The National Park Service administers the National Park System, which is made up of national parks, monuments, historic sites, battlefields, seashores, lake shores, and recreation areas. The National Park Service maintains the park units, protects the natural and cultural resources, and conducts a range of visitor services such as law enforcement, park maintenance, and interpretation of geology, history, and natural and cultural resources.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. This listing below was developed considering the proximity of an identified self-governance tribe to a national park, monument, preserve, or recreation area and the types of programs that have components that may be suitable for contracting through a self-governance agreement. This listing is not all-inclusive, but is representative of the types of programs which may be eligible for tribal participation through a funding agreement.

a. Archaeological Surveys
b. Comprehensive Management Planning
c. Cultural Resource Management Projects
d. Ethnographic Studies
e. Erosion Control
f. Fire Protection
g. Gathering Baseline Subsistence Date, Alaska
h. Hazardous Fuel Reduction
i. Housing Construction and Rehabilitation
j. Interpretation
k. Janitorial Services
l. Maintenance
m. Natural Resource Management Projects
n. Operation of Campgrounds
o. Range Assessment, Alaska
p. Reindeer Grazing, Alaska
q. Road Repair
r. Solid Waste Collection and Disposal
s. Trail Rehabilitation
t. Watershed Restoration and Maintenance
u. Beringia Research
v. Elwha River Restoration

Locations of National Park Service Units With Close Proximity to Self-Governance Tribes

1. Bering Land Bridge National Park, Alaska.
2. Cape Krusenstern National Monument, Alaska.
3. Gates of the Arctic National Park & Preserve, Alaska.
4. Glacier Bay National Park and Preserve, Alaska.
5. Katmai National Park and Preserve, Alaska.
6. Kenai Fjords National Park, Alaska.
7. Klondike Gold Rush National Historical Park, Alaska.
8. Kobuk Valley National Park, Alaska.
9. Lake Clark National Park and Preserve, Alaska.
10. Noatak National Preserve, Alaska.
11. Sitka National Historical Park, Alaska.
12. Wrangell-St. Elias National Park and Preserve, Alaska.
13. Yukon-Charley Rivers National Preserve, Alaska.
14. Casa Grande Ruins National Monument, Arizona.
15. Hohokam Pima National Monument, Arizona.
16. Montezuma Castle National Monument, Arizona.
17. Organ Pipe Cactus National Monument, Arizona.
18. Saguaro National Park, Arizona.
19. Tonto National Monument, Arizona.
20. Tumacacori National Historical Park, Arizona.
21. Tuzigoot National Monument, Arizona.
22. Arkansas Post National Memorial, Arkansas.
23. Joshua Tree National Park, California.
24. Lassen Volcanic National Park, California.
25. Redwood National Park, California.
26. Whiskeytown National Recreation Area, California.
27. Hagerman Fossil Beds National Monument, Idaho.
28. Effigy Mounds National Monument, Iowa.
29. Fort Scott National Historic Site, Kansas.
30. Tallgrass Prairie National Preserve, Kansas.
31. Boston Harbor Islands, a National Park Area, Massachusetts.
32. Cape Cod National Seashore, Massachusetts.
33. New Bedford Whaling National Historical Park, Massachusetts.
34. Sleeping Bear Dunes National Lakeshore, Michigan.
35. Grand Portage National Monument, Minnesota.
36. Voyageurs National Park, Minnesota.
37. Bear Paw Battlefield, Nez Perce National Historical Park, Montana.
38. Glacier National Park, Montana.
39. Great Basin National Park, Nevada.
40. Aztec Ruins National Monument, New Mexico.
41. Bandelier National Monument, New Mexico.
42. Carlsbad Caverns National Park, New Mexico.
43. Chaco Culture National Historical Park, New Mexico.
44. White Sands National Monument, New Mexico.
45. Fort Stanwix National Monument, New York.
46. Cuyahoga Valley National Park, Ohio.
47. Hopewell Culture National Historical Park, Ohio.
48. Chickasaw National Recreation Area, Oklahoma.
49. John Day Fossil Beds National Monument, Oregon.
50. Alibates Flint Quarries National Monument, Texas.
51. Guadalupe Mountains National Park, Texas.

52. Lake Meredith National Recreation Area, Texas.
53. Ebey's Landing National Recreation Area, Texas.
54. Mt. Rainier National Park, Washington.
55. Olympic National Park, Washington.
56. San Juan Islands National Historical Park, Washington.
57. Whitman Mission National Historic Site, Washington.

For questions regarding self-governance contact Dr. Patricia Parker, Chief, American Indian Liaison Office, National Park Service, 1201 Eye Street, NW., (Org. 2560, 9th Floor), Washington, DC 20005, telephone 202–354–6965, fax 202–371–6609.

III. Programmatic Targets

During Fiscal Year 2007, upon request of a self-governance tribe, the National Park Service will negotiate funding agreements for its eligible programs beyond those already negotiated.

Dated: March 13, 2007.

David Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E7–7119 Filed 4–13–07; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meetings for the National Park Service (NPS) Subsistence Resource Commission (SRC) Program Within the Alaska Region

AGENCY: National Park Service, Interior.

SUMMARY: The NPS announces the SRC meeting schedule for the following areas: Gates of the Arctic National Park and Lake Clark National Park. The purpose of each meeting is to develop and continue work on subsistence hunting program recommendations and other related subsistence management issues. Each meeting is open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. Each meeting will be recorded and a summary will be available upon request from each Superintendent for public inspection approximately six weeks after each meeting.

The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act.

DATES: The Gates of the Arctic National Park SRC meeting will be held on Wednesday, April 25, 2007, and Thursday, April 26, 2007, from 9 a.m. to 5 p.m., Alaska Standard Time.

Location: Sophie Station Hotel, 1717 University Ave., Fairbanks, AK, telephone: (907) 479–3650. Please note the meeting may end early if all business is finished.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Superintendent, Superintendent, and Fred Anderson, Subsistence Manager, Gates of the Arctic National Park and Preserve, 4175 Geist Road, AK, telephone: (907) 457–5752.

DATES: The Lake Clark National Park SRC meeting and teleconference will be held on Monday, April 30, 2007, from 10 a.m. to 12 p.m., Alaska Standard Time.

Location: The Lake Clark National Park and Preserve Visitor Center, Port Alsworth, AK. Interested public may participate in the teleconference by dialing (888) 396–9927, passcode: 23098. Please note the meeting and teleconference may end early if all business is finished.

FOR FURTHER INFORMATION CONTACT: Mary McBurney, Subsistence Manager, telephone: (907) 235–7891, Joel Hard, Superintendent, telephone: (907) 644–3627, and Michelle Ravenmoon, Subsistence Coordinator, telephone: (907) 781–2218, at Lake Clark National Park and Preserve, 1 Park Place, Port Alsworth, AK.

SUPPLEMENTARY INFORMATION: SRC meeting locations and dates may need to be changed based on weather or local circumstances. If meeting dates and locations are changed notice of each meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates.

The agenda for each meeting include the following:

1. Call to order (SRC Chair).
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review and Approve Agenda.
5. Status of SRC Membership.
6. SRC Member Reports.
7. Superintendent and NPS Staff Reports.
8. Federal Subsistence Board Update.
9. State of Alaska Board and Committee Actions Update.
10. New Business.
11. Agency and Public Comments.
12. SRC Work Session.
13. Set time and place of next SRC meeting.

Adjournment.

Victor Knox,

Acting Director, Alaska Region.

[FR Doc. 07–1863 Filed 4–13–07; 8:45 am]

BILLING CODE 4312–HK–M

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of June 14, 2007 and October 4, 2007 meetings.

SUMMARY: This notice sets forth the date of the June 14, 2007 and October 4, 2007 meetings of the Gettysburg National Military Park Advisory Commission.

DATE: The public meetings will be held on June 14, 2007 and October 4, 2007 from 7 a.m. to 9 p.m.

Location: The meetings will be held at the Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: The June 14, 2007 meeting in addition to the following consists of Nomination of Chairperson and Vice-Chairperson for the 2007 Year, then at both the June 14, 2007 and October 4, 2007 meetings there will be Sub-Committee Reports from the Historical, Executive, and Interpretive Committees; Federal Consistency Reports Within the Gettysburg Battlefield Historic District; Operational Updates on Park Activities which include an update on the new Visitor Center/Museum Complex, also on the Wills House project, Landscape Rehabilitation, and the Shuttle System; and the Citizen's Open Forum where the public make comments and ask any questions on any park activity.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meetings will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The Statement should be addressed to the Gettysburg National Military Park Advisory Commission, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: March 9, 2007.

Dr. John A. Latschar,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 07–1864 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–JT–M

DEPARTMENT OF THE INTERIOR

National Park Service

Selma to Montgomery National Historic Trail Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Selma to Montgomery National Historic Trail Advisory Council will be held Thursday, May 17, 2007 at 9 a.m. until 3:30 p.m., at the Lowndes County Interpretive Center located at 7002 Highway 80 West, Hayneville, Alabama. The Selma to Montgomery National Historic Trail Advisory Council was established pursuant to Public Law 100–192 establishing the Selma to Montgomery National Historic Trail. This Council was established to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, and administrative matters.

The matters to be discussed include:

(A) Welcome New Members.

(B) Update on the Lowndes Interpretive Center.

(C) Update on other Interpretive Sites.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on first come, first serve basis. Anyone may file a written statement with Superintendent Catherine F. Light concerning the matters to be discussed.

Persons wishing further information concerning this meeting may contact Catherine F. Light, Trail Superintendent, Selma to Montgomery National Historic Trail, at 334–727–6390 (phone), 334–727–4597 (fax) or mail 1212 Old Montgomery Road, Tuskegee Institute, Alabama 36088.

Dated: April 3, 2007.

Shirley T. Streeter,

Selma to Montgomery National Historic Trail (Acting) Superintendent.

[FR Doc. E7–7114 Filed 4–13–07; 8:45 am]

BILLING CODE 4310–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before March 31, 2007. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by May 1, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

CALIFORNIA

Butte County

Oroville Carnegie Library, (California Carnegie Libraries MPS) 1675 Montgomery St., Oroville, 07000405

Monterey County

Whalers Cabin, Pt. Lobos State Reserve, 4 mi. S. of Carmel, Carmel, 07000406

IOWA

Scott County

Schmidt, Louis C. and Amelia L., House, 1138 Oneida Ave., Davenport, 07000407

MAINE

Kennebec County

Lockwood Mill Historic District, 6,6B,8,10 and 10B Water St., Waterville, 07000412

Lincoln County

Gray House, Old, 60 Tavenner Rd., Boothbay, 07000408

Washington County

Machias Balley Grange, #360 (Former), 3 Elm St., Machias, 07000410

Windswept, 421 Petit Manan Point Rd., Steuben, 07000411

York County

Johnson, Dennis, Luber Company Mill, NE. side of ME 5, 0.3 mi. N. of Silas Brown Rd., Waterboro, 07000409

NEW MEXICO

Santa Fe County

Dodge—Bailey House, 3775 Old Santa Fe Trail, Santa Fe, 07000414

NORTH CAROLINA

Caswell County

Red House Presbyterian Church, 13409 NC 119 N., Semora, 07000413

VIRGINIA

Frederick County

Fort Colvin, 104 Stonebrook Rd., Winchester, 07000416

Rockingham County

Driver, David and Catherine, Farm, 3796 Long Meadow Dr., Timberville, 07000415

A request for REMOVAL has been made for the following resource:

KANSAS

Sedgwick County

McMullen House, 1003 N. Faulkner, Wichita, 07000138

[FR Doc. E7–7092 Filed 4–13–07; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Testing of Methods for Measuring Hydrocarbon Dew Points in Natural Gas Streams

Notice is hereby given that, on March 20, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Ametek/Process & Analytical, Pittsburgh, PA; Gas Processors Association, Tulsa, OK; Michell Instruments Inc., Danbury, CT; and Pipeline Research Council International, Inc., Arlington, VA. The general area of SwRI's planned activity is to evaluate existing instruments to objectively measure hydrocarbon dew points in natural gas. Emphasis will be placed on accuracy, repeatability, and response time of hydrocarbon dew point measurements. This project is proposed to resolve technical issues associated with the determination of natural gas quality by the industry.

Membership in this research group remains open, and the participants intend to file additional written notification disclosing all changes in membership or planned activities.

Patricia A. Brink,

Deputy Director of Operating, Antitrust Division.

[FR Doc. 07–1870 Filed 4–13–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

April 11, 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: Revision of a currently approved collection.

Title: Transmittal of Unemployment Insurance Materials.

OMB Number: 1205–0222.

Frequency: Annually.

Affected Public: State, Local, or Tribal Government.

Type of Response: Reporting.

Number of Respondents: 53.

Annual Responses: 636.

Average Response time: 1 minute.

Total Annual Burden Hours: 11.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: Section 303(a)(6), SSA, requires, as a condition of receiving administrative grants, that state law contain provision for the ''making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to ensure the correctness and verification of such reports.'' Departmental regulations at 20 CFR 601.3 in part implement this requirement by requiring the submission of ''all relevant state materials, such as statutes, executive and administrative orders, legal opinions, rules, regulations, interpretations, court opinions, etc. * * * '' Also, the regulations for the UC for Federal Civilian Employees (UCFE) program at 20 CFR 609.1(d)(1) and for the UC for ex-service members (UCX) program at 20 CFR 614.1(d)(1) require submission of certain documents to assure that states are properly administering these programs. The Trade Adjustment Assistance (which includes Trade Readjustment Allowances) program (TAA/TRA) regulations provide similar requirements at 20 CFR 617.52(c)(1).

The MA 8–7 is the mechanism for implementing these submittal requirements, the purpose of which is to provide the Secretary with sufficient information to determine if (a) employers in a state qualify for tax credits under the Federal Unemployment Tax Act; (b) the state meets the requirements for obtaining administrative grants under Title III, SSA; and (c) the state is fulfilling it obligations under Federal UC programs.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E7–7150 Filed 4–13–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,709]

Caraustar Industries, York Carton Plant; York, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 14, 2007, applicable to workers of Caraustar Custom Packaging Group, Inc., Austell, Georgia. The notice was published in the **Federal Register** on February 27, 2007 (72 FR 8794).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of folding cartons.

New information shows that the correct name and location of the subject firm should read Caraustar Industries, York Carton Plant, York, Pennsylvania.

Caraustar Custom Packaging Group, Inc., Austell, Georgia, the parent firm of Caraustar Industries, was inadvertently stated as the subject firm of this investigation in the original certification and is not the subject firm of this investigation.

The investigation that was conducted was correctly conducted on behalf of the workers of Caraustar Industries, York Carton Plant, York, Pennsylvania.

Accordingly, the Department is amending this certification to correct the subject firm name, city and State.

The intent of the Department's certification is to include all workers of Caraustar Industries, York Carton Plant who were adversely affected by customer imports.

The amended notice applicable to TA–W–60,709 is hereby issued as follows:

All workers of Caraustar Industries, York Carton Plant, York, Pennsylvania, who became totally or partially separated from employment on or after December 20, 2005 through February 14, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 6th day of April 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7101 Filed 4–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,204]

Gildan Activewear Malone, Inc., Bombay, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 27, 2007 in response to a worker petition filed a company official on behalf of workers at Gildan Activewear Malone, Inc., Bombay, New York.

The petitioner has withdrawn the petition. Thus, this investigation is terminated.

Signed at Washington, DC, this 5th day of April 2007.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7098 Filed 4–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,115]

Modine Manufacturing, Blythewood, SC; Notice of Revised Determination on Reconsideration

On November 16, 2006, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Modine Manufacturing, Blythewood, South Carolina (the subject firm). The Department's Notice of affirmative determination was published in the **Federal Register** on November 24, 2006 (71 FR 67918).

The worker-filed petition, dated September 19, 2006, stated that the subject firm produces automotive transmission oil coolers, that the subject firm will close in April 2007, and that subject firm production is shifting abroad (to Mexico).

The denial of the workers' eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) was based on the Department's findings that there was no decline in sales or production in January through August 2006 compared to the same period in 2005, the subject firm did not import, and the subject firm did not shift production abroad during the relevant period. The determination was issued on October 12, 2006 and the Notice of determination was published in the **Federal Register** on October 25, 2006 (71 FR 62490).

Based on the July 20, 2006 WARN notice provided during the reconsideration (''It is anticipated that the plant closing will commence on September 15, 2006 and will continue into 2007''), the Department determines that, during the relevant period, there were significant sales, production, and employment declines at the subject firm.

On reconsideration, the Department received information that revealed no increased import purchases of automotive transmission oil coolers or articles like or directly competitive with automotive transmission oil coolers by either the subject firm or the subject firm's major declining customers. As such, the Department determines that increased imports did not contribute importantly to the subject workers' separations.

During the reconsideration investigation, the Department also confirmed with company officials that production shifted from the subject firm to an affiliated facility in Illinois.

When it became apparent during the reconsideration investigation that the subject workers are not eligible to apply for TAA as primary workers, the Department conducted an investigation to determine whether the workers are eligible as secondary workers (workers of a company that supplied component parts to a customer that employed a group of workers certified for TAA).

As the reconsideration investigation progressed, the Department was able to identify a subject firm customer that employed a group of workers who received a TAA certification and determined that the component parts supplied by the subject firm are related to the article that was the basis for the certification. Further, the new information revealed that the TAA-certified customer constituted over 20% of subject firm sales prior to the plant closure in September 2006.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA. The Department has determined in this case that the group eligibility requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the information obtained in the reconsideration investigation, I determine that workers of Modine Manufacturing, Blythewood, South Carolina qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

''All workers of Modine Manufacturing, Blythewood, South Carolina, who became totally or partially separated from employment on or after September 19, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 6th day of April 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7099 Filed 4–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,134]

National Textiles (Sara Lee), Winston-Salem, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 19, 2007, in response to a petition filed by on behalf of workers of National Textiles, Sara Lee, Winston-Salem, North Carolina.

The petitioning group of workers is covered by an amended certification for workers of Hanes Brands Inc., formerly National Textiles, formerly Sara Lee Branded Apparel, Division Office, Winston-Salem, North Carolina (TA–W–57,802), which expires on September 28, 2007. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 4th day of April, 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–7100 Filed 4–13–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Preparing Ex-Offenders for the Workplace Through Beneficiary-Choice Contracting; Solicitation for Grant Applications

Announcement Type: New. Notice of solicitation for grant applications.

Funding Opportunity Number: SGA/DFA PY–06–14.

Catalog of Federal Domestic Assistance (CFDA) Number: 17,261.

Key Dates: The closing date for receipt of applications under this announcement is May 25, 2007. Applications must be received no later than 4 p.m. (Eastern Time). Application and submission information is explained in detail in Section IV of this SGA.

There will be an informational webinar held for this grant competition. Information on the date/time of this webinar and a recording for applicants who cannot attend will be available on *www.dol.gov/cfbci*.

Summary: The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of approximately $5 million in Responsible Reintegration of Youthful Offender grant funds to address the specific workforce challenges of ex-offenders and produce positive outcomes with a particular focus on employment and reduced recidivism. Projects funded under this competition will be consistent with both DOL's Youth Vision and President Bush's Faith-Based and Community Initiative.

Grant funds awarded under this competition will be used to implement a program of services for ex-offenders (ages 18 to 29) under a beneficiary-choice contracting model. The beneficiary choice contracting model, to be explained more fully later, involves providing program participants with an independent choice among multiple service providers for specific services. Participants will receive case management services from the grantee, but will choose among contracted specialized service providers for more in-depth services, including soft-skills training and long-term follow up on participant outcomes. The grantee will compensate the contracted specialized service providers on a per capita basis for services provided, as well as per capita performance-based incentives.

The overarching objective of these programs will be to help ex-offenders receive services and training, enter and retain employment, and avoid recidivism. Each application must provide evidence of partnerships with a network of faith-based and community organizations (FBCOs), the public workforce investment system and the criminal justice system. Strategic partnerships between business representatives from high-growth/high-demand industries and the education and training community are also encouraged. It is anticipated that individual awards will average $1,000,000 for the first year of operation to serve 225 participants per site.

Supplementary Information: This solicitation provides background information on Beneficiary Choice Contracting and critical elements required of projects funded under the solicitation. It also describes the application submission requirements, the process that eligible applicants must use to apply for funds covered by this solicitation, and how grantees will be selected. This announcement consists of eight parts:

- Part I provides background information on Beneficiary Choice Contracting, DOL's Youth Vision, and The President's Faith-Based and Community Initiative.
- Part II describes the size and nature of the anticipated awards.
- Part III describes the qualifications of an eligible applicant.
- Part IV provides information on the application and submission process.
- Part V explains the review process and rating criteria that will be used to evaluate applications.
- Part VI provides award administration information.
- Part VII contains ETA contact information.
- Part VIII contains other information for applicants.

Part I. Funding Opportunity Description

1. Background

Experts estimate that each year more than 650,000 inmates are released from Federal and State prisons and return to their communities and families. The return of these ex-prisoners threatens the fragile cohesion in many of the most troubled neighborhoods in America. Without help, a majority of ex-prisoners return to criminal activity. For example, according to the U.S. Department of Justice, 68 percent of inmates will be charged with new crimes within three years of their release from prison, and 47 percent will be reconvicted.

Released prisoners face a myriad of challenges that contribute to a return to criminal activity, re-arrest, and re-incarceration. Joblessness among ex-prisoners has been broadly linked to recidivism rates. Statistics reveal that even before incarceration, adult prisoners demonstrate weak or non-existent ties to the workforce. Data from 1997 show that nearly one-third of adult prisoners were unemployed in the month before their arrest, compared to seven percent unemployment in the general population. Post-incarceration employment rates only get worse—unemployment among ex-prisoners has been estimated at between 25 and 40 percent. Likewise, prisoners also demonstrate low levels of educational attainment. Nineteen percent of adult State prisoners are completely illiterate and 40 percent are functionally illiterate; over half of State parole entrants were not high school graduates and as many as eleven percent had an eighth grade education or less.

Research has also broadly documented the substance abuse and mental health issues of ex-prisoners—factors that are likely to contribute to poor education levels, lack of employability, and a return to criminal activity. A study of parolees from State prisons in 1999 found that 84 percent had been using an illegal drug or abusing alcohol at the time of their offense. One-quarter had been alcohol dependent and one-quarter had been IV drug users. Fourteen percent had a mental illness and twelve percent were homeless at the time of their arrest. In some States, nearly one-quarter of parole revocations were related to drug-related violations.

In returning to criminal activity, ex-prisoners contribute to the presence of violence and crime in already struggling neighborhoods and reduce their own chances of living healthy and positive lives or contributing to their families. Research indicates that parental loss is related to a host of poor outcomes for children that include poverty, drug abuse, educational failure, criminal behavior, and premature death. Healthy and consistent relationships between parents and children strengthen the community by positively impacting both generations. Ex-offenders with strong family and community ties have greater success in reintegrating into the community and avoiding incarceration.

In order to successfully reintegrate into the community, it is essential that

ex-offenders possess the skills and support necessary to enter and compete in the workforce. This solicitation is designed to draw on the unique strengths of faith-based and community organizations that may not readily partner with the government under more typical funding mechanisms. These organizations will serve as a primary partner for social service delivery to ex-prisoners, offering highly personalized support as well as a direct link into the communities to which the ex-prisoners are returning. The program also seeks to coordinate the provision of these services with judicial system supervision of the released prisoners by working with parole and probation officers.

Community-based partners are well suited for this work because they can provide the resources and infrastructure necessary to intervene in the lives of returnees and interrupt cycles of crime and incarceration. This grant will rely heavily on FBCOs to develop relationships and ensure connections to rehabilitation services for the formerly incarcerated. Research indicates that faith-based and community institutions are among the strongest, most trusted institutions in the urban neighborhoods to which the majority of released inmates will return. Local faith-based and community organizations possess many resources at their command—including buildings, volunteers, the respect of the community and a rich tradition of outreach and service. Churches, mosques, temples, service organizations, and community centers can be especially significant in impoverished urban areas, where FBCOs have historically had a strong presence.

Many FBCOs also possess a proven ability to work collaboratively with other service providers and justice agencies for the delivery of social services. This is a vital asset since many FBCOs in poor urban neighborhoods are small and possess limited financial resources. To effectively ensure connections to job training and social services, they must build collaborations with other public and private organizations. A substantial number of inner-city faith-based and community leaders already operate re-entry programs. This initiative will help develop and expand these programs that provide job training, mentoring and other transitional services that help ex-offenders avoid recidivism and become contributing members of their communities.

Objectives

This program is designed to operate via a beneficiary-choice contracting model. Under this model, the individual receiving government-funded services (beneficiary) is offered a genuine and independent choice among multiple providers. Each provider offers the same core services, as well as a unique combination of related services. Since service providers are allowed flexibility in the combination of and approach to services they offer, this model fosters a diversity of service styles in service delivery. This diversity, in turn, enables each recipient to choose the provider best suited to his or her unique needs and encourages a greater personal engagement as the recipient takes ownership in choosing among a variety of services and providers. The approach allows flexibility and freedom to both participants and providers, and enables organizations that might be disinclined to partner with the government in a more constrained environment to consider doing so.

Grant objectives for this program include:

- Positive outcomes for participants, including lower recidivism, successful employment and increased job retention;
- Drawing upon the unique strengths of many faith-based and community groups that may not readily partner with the government under more typical funding mechanisms; and
- Serving as a model for Federal, State and local agencies looking to implement beneficiary-choice contracting.

Service Model

Grants will be awarded to faith-based and community organizations, Workforce Investment Boards, One-Stop Career Centers, corrections agencies, and other State or local agencies. The grantee will act as the central services coordinator (services coordinator). Participants can be recruited in many different ways, including by referrals to the services coordinator directly by the courts, parole agencies, criminal justice agencies, local One-Stop Career Centers, Youth Build programs or other service providers. A referral network of service providers must also be developed and maintained by each grantee.

Services Coordinator

Participants will be enrolled by the services coordinator, which will provide case management and referral to program services. The services coordinator will conduct an initial assessment of the participant's needs and interests and then offer him or her a genuine and independent choice among a variety of approved specialized service providers for in-depth services. The participant will make this choice based on summaries of the specialized service providers that include a description of the services offered (both core and specialized) by each sub-contractor (listed below). This participant choice must be free, independent and informed. The service coordinator may discuss the participants needs discovered in the initial assessment, but once the choice process has begun, each participant must make the choice of specialized service providers based on the neutral information given to him or her by the service coordinator.

The services coordinator will provide case management to all participants that enroll in the program. The services coordinator will also manage relationships and contracts with its network of specialized service providers. Expenditures by the services coordinator on its own activities and expenses cannot account for more than 40% of grant funds. This includes funds reserved for services and program administration, including technical assistance and oversight. At least 60% must be spent on services for participants through specialized service providers serving program participants.

All grantee sites must include access to a wide variety of services that ex-offenders need to successfully transition into employment. As services coordinators, grantee organizations will:

- Identify and recruit participants;
- Provide basic intake services, including assessment of needs and interests;
- Offer each participant a genuine and independent choice among service providers—including at least one provider of non-religious-based services;
- Require informed consent forms of individuals choosing services that contain religious content;
- Provide ongoing case management;
- Aid recipients in making full use of all services available through local One-Stop Career Center systems, including, when possible, Individual Training Accounts;
- Develop a referral process for services. Through this referral process the service coordinator will ensure that there is a provider of non-religious-based (secular) service for every religious-based service offered;
- Recruit employers that are willing to employ program participants; and
- Develop a data collection strategy.

As manager of its contracts with specialized service providers, grantee organizations will:

- Design guidelines and baseline criteria for service provider organizations' participation. These objective criteria would require a level of quality in basic services offered. In addition, preference in selecting specialized service provider sub-contractors should be given to organizations that provide a diverse offering of supplementary services;
- Recruit a minimum of five specialized service providers—including FBCOs;
- Ensure at least one specialized service provider that offers non-religious-based services;
- Establish performance-based contracts with service provider organizations;
- Oversee grant data collection procedures and compilation;
- Aid service providers in compliance with necessary reporting and other compliance issues;
- Deliver contract payment to service providers; and
- Perform all other aspects of managing the Federal grant—including fiscal controls and responsibility.

After obtaining the consent of the participant, the services coordinator must share information including basic contact information, assessment information and any other pertinent information with the chosen service provider. Case management must also be provided in coordination with the specialized service provider so as to minimize duplication and confusion for the participant.

Service coordinators must also develop a referral system to address participant needs beyond those addressed by the core services offered. The service coordinator must develop a functional referral system to provide participants referrals to other specialized services beyond core services that might not be met through specialized service providers. Through this referral process the service coordinator will ensure that that there is at least one provider of non-religious-based (secular) service if that same specialized service is offered through religious-based service by the sub-contractors. Services that the coordinator may provide referrals for include transitional housing, substance abuse treatment, health services (including mental health services and counseling), continuing education system (including alternative schools and community colleges), and the One-Stop Career Center. The services coordinator will maintain relationships with organizations/entities offering these specialized services and must keep updated information on each referral partner to ensure there is always a current list of referral partners. This referral list must be kept separate from the specialized service provider list. However, specialized service providers may also be listed on this referral list.

Specialized Service Provider

Based upon an established performance-based contract with the grant recipient organization (services coordinator), specialized service provider organizations will offer specific services to participants. A single organization or its affiliates, cannot serve as both coordinator and a specialized service provider.

The services coordinator will offer the participant a genuine and independent choice of providers. The services coordinator will then refer the participant to the chosen specialized services provider. The specialized service provider will receive both the participant and their needs assessment from the services coordinator. The specialized service provider will then use both the prior assessment and its own in-person meetings with the participant to develop an individual services plan, which will serve as a guide for both the provider and the participant as he/she works through the program. Any case management provided by the specialized service provider must also be coordinated with the services coordinator so as to minimize duplication and confusion for the participant.

All specialized service providers will be required to provide the following core services:

- Work readiness training (*e.g.* soft skills, life skills and/or basic skills);
- Career counseling (*e.g.* one-on-one or group mentoring); and
- Follow-up on participants' post program outcomes for a minimum of six months.

In addition to core services, it is expected that specialized service providers offer other useful services for ex-offenders transitioning into the workplace. These supplementary services, offered either directly or through partnerships with other organizations, could include:

- Counseling (including anger management, addiction, family, social reintegration, etc.)
- Transitional housing
- Substance abuse and alcohol prevention
- Child care services
- Mentoring
- English proficiency courses
- Job placement
- Alternative secondary school offerings (GED preparation)
- Financial literacy
- Job retention services
- Supportive services (*e.g.* bus passes, interview clothing, fees for GED testing, etc.)
- Tutoring, study skills training, instruction, and degree attainment (*e.g.* GED, Associates Degree or technical certificate)

Specialized service providers will be compensated on a per-capita basis based upon their contract with the services coordinator. Partial compensation will be provided on a per-capita basis after the participant has enrolled in the program. The remainder payment(s) will be based on attainment of specific outcomes: completion of course curriculum, job placement, job retention and non-recidivism.

Specialized service providers will be responsible for tracking outcomes on clients served, services provided, completion of services rendered, job placement, job retention, earnings and recidivism. Specialized service providers must report back to the services coordinator on all the services received and outcomes for participants served under the grant.

As part of the grant application process, the applicant must submit a detailed Memorandum of Agreement (MOA) with at least three specialized service providers that describe the specialized service provider's firm commitment to act as a subcontractor in the program. This MOA will describe the role of the services coordinator and specialized service provider, the core and supplementary services to be provided, and the method of payment for these services. A minimum of five specialized service providers must be a part of each grant program when services begin. Specialized service providers include faith-based and community organizations. Specialized service providers are to be selected without regard to religious character affiliation, or lack thereof. At least one specialized service provider at each site, however, must offer non-religious-based (secular) services. Participants may not choose more than one specialized service provider from whom to receive core services.

Partnership With Workforce Investment System

A grantee must develop a functioning referral system with its local One-Stop Career Center and Workforce Investment Board. While the nature of these referral relationships will vary, grantees may enter into agreements with the

workforce investment system to assist with assessments of participants, development of individual employment service strategies, enrollment in training programs, and placement into jobs.

As part of the application process, the applicant must submit an MOA with their local Workforce Investment Board/ One-Stop Operator that describes the One-Stop Operator's firm commitment to entering into, at a minimum, a formal referral partnership with the applicant. This formal partnership should produce two-way client referrals from the One-Stop Career Center to the applicant and from the applicant to the One-Stop Career Center on which the applicant will be required to report, as well as appropriate access to One-Stop Career Center resources. The MOA must describe that the One-Stop Operator has acknowledged that the applicant organization is complementing the services provided by the One-Stop Career Center. If an agreement with the One-Stop Operator is not provided, the applicant should, at a minimum, demonstrate that the One-Stop Operator was contacted and provided a sufficient opportunity for response.

Partnership With Local Corrections Agency

The applicant must also submit an MOA from at least one local corrections agency with which the applicant will work on this project. This document will also describe the corrections agency's firm commitment to entering a formal referral partnership with the applicant.

This formal partnership will produce referrals from the local detention facility to the grantee. This may include pre-release sessions with soon-to-be-released inmates on the nature of the programs and developing important pre-release relationships, especially in the area of mentoring, where appropriate. The agreement must describe that the corrections agency has acknowledged that the applicant organization and its subcontractors will provide reentry services that will assist former inmates. If an agreement with the local corrections agency is not provided, the applicant should, at a minimum, demonstrate that the agency was contacted and provided sufficient opportunity for response. Similar agreements with parole and probation agencies are also encouraged.

Outcomes

As this is an employment-focused program, the U.S. Department of Labor is funding specific employment-based services and outcomes. Four outcome measures will be used to measure success in these grants: Entered employment rate, employment retention rate, earnings, and recidivism rate. In addition, grantees will report on a number of leading indicators that will serve as predictors of success. Leading indicators will include: Enrollment rate; participation in education/training; workforce preparation; mentoring; attainment of degrees and certificates; reduced substance abuse; proportion of enrollees in stable housing (beyond 90 days post-release); and proportion of enrollees complying with parole conditions. In applying for these grants, grantees and their sub-contractors agree to submit updated Management Information System (MIS) data on enrollee characteristics, services provided, placements, outcomes, and follow-up status.

Evaluation

There will be a formal evaluation of this initiative. In applying for these grants, applicants and their sub-contractors agree to cooperate in this evaluation by providing enrollment and participation data and other information during all years of the project.

2. DOL's Youth Vision

The White House Taskforce on Disadvantaged Youth notes that despite the billions of Federal, State, local, and private dollars spent on needy youth and their families, many out-of-school, at-risk youth are currently being left behind in our economy because of a lack of program focus and emphasis on outcomes. Well-designed and coordinated programs offer youth who have become disconnected from mainstream institutions and systems additional opportunities to successfully transition to adult roles and responsibilities. DOL's Youth Vision focuses on four major areas: Improving alternative education services to youth, meeting the demands of business, especially in high-growth industries and occupations, serving the neediest youth, and improving program performance. Applicants are encouraged to demonstrate a commitment to these objectives in their program design and application.

3. The President's Faith-Based and Community Initiative

President Bush's Faith-Based and Community Initiative is built on a simple conviction: America can do better for our neighbors in need when we enlist every partner willing to join in service. Advancing this goal first requires ensuring a ''level playing field'' for all organizations willing to join with the government in service, including ones that may have been excluded in the past. The Center for Faith-Based and Community Initiatives at the U.S. Department of Labor (the Center) has worked to eliminate any barriers preventing effective organizations from partnering with the government. Equally important, the Center works with all agencies of the Department of Labor to cultivate public/nonprofit/private partnerships nationwide to make its services both more comprehensive and more effective.

A critical aspect of removing barriers and forging new partnerships involves expanding opportunities for choice-based social services. In addition, because participants make an independent choice among providers, the organizations providing services enjoy greater flexibility to incorporate elements that would not otherwise be permitted in more typical government-funded programs, including religious aspects. This freedom results in a broader and more diverse social safety net since organizations that may have had little interest in partnering with government programs under more typical scenarios may be willing to become providers of government-funded services. While more traditional social services may be ideal for some program participants, others may benefit tremendously from the unique and innovative programs offered by new providers. The opportunity to make real choices can also serve to empower program participants and increase their sense of engagement in the services they receive.

Whatever the social service may be, faith-based and community organizations have an indispensable role to play. Their networks of dedicated volunteers, local knowledge, and deep roots in their communities provide a tremendous complement to more traditional government-funded programs. This enables maximum impact for taxpayer dollars. Most significantly, the service of faith-based and community organizations can have a deep and abiding impact on the individuals they serve and the community as a whole.

Applicants are encouraged to demonstrate a commitment to these objectives in their program design and application.

4. Areas of ETA Emphasis for This SGA

ETA has developed six areas of emphasis for projects funded through this SGA: (1) Increasing service provider choice for ex-offenders returning to their communities; (2) helping ex-offenders connect to local FBCOs to receive support services that increase

attachment to the labor market; (3) building strategic partnerships; (4) leveraging resources; (5) achieving high-performance outcomes; and (6) replicability. These areas of emphasis are taken into account in the evaluation of proposals.

• Increasing Service Provider Choice for Ex-Offenders Returning to Their Communities. This SGA places great emphasis on ensuring that participants are able to choose the organization and services that will best suit their needs. Not only does this give the participant a sense of ownership of the program, it also enables him/her to select the services that address their specific needs. This SGA also requires a diverse assortment of providers for the participant to choose from. It is anticipated that broader choices and greater participant engagement will provide higher employment and lower recidivism among participants.

• Helping Ex-Offenders Connect to Local FBCOs To Receive Support Services That Increase Attachment to the Labor Market. Faith-based and community organizations are well equipped to provide aid and support to people in need. Many such organizations have been serving for decades in some of America's most resource-poor neighborhoods, and are strengthened by dedicated volunteers, local knowledge, and deep roots in their communities. This SGA will help establish formalized links with FBCOs that already provide many valuable support services to ex-offenders returning to the community, and will draw upon their strengths to provide support that will enable ex-offenders to succeed in the workplace and avoid repeating past mistakes.

• Building Strategic Partnerships. ETA believes that strategic partnerships between faith-based and community organizations and the public workforce investment system, business and industry representatives, the correctional system, and education and training providers such as community colleges, are vital to ensuring that participants gain the skills and competencies necessary to enter and advance in the workplace.

In order to maximize success, each partner must be engaged in its area of strength and have a clearly defined role in the partnership. For example, faith-based and community organizations can provide a highly personal connection to participants, as well as services that can prove decisive in job retention, such as mentoring and soft-skills training. Employers provide work-based opportunities for participants. Community colleges and other education and training providers assist in providing training for new and incumbent workers. The corrections system makes referrals to the program and can provide external impetus to participants for their own success. The workforce investment system may assist with the assessments of participants, develop individual service strategies, enroll them in training programs, place trained participants into jobs and conduct follow-up. A wide range of other partner roles and responsibilities can be included in the design and implementation of a beneficiary-choice model.

• Leveraging Resources. Applicants should utilize funds and resources from other entities. Leveraging resources in the context of strategic partnerships accomplishes three goals: (1) using the entirety of resources available through a clearly defined strategy; (2) increasing stakeholder investment in the project at all levels, including design and implementation phases; and (3) broadening the impact of the project itself.

Businesses, faith-based and community organizations, and foundations often invest resources to support workforce development. In addition, other government programs may provide resources, including WIA funds reserved for Statewide activities, local WIA Youth formula funds, State juvenile justice funds, Federal No Child Left Behind education funds, Chaffee, Runaway and Homeless funds and State education funds. ETA encourages applicants and their partners to be entrepreneurial as they seek out, utilize, and sustain these resources while creating effective, innovative projects for ex-offenders.

Applicants will be rated in part on their ability to demonstrate commitments of leveraged resources. These leveraged resources may be either in-kind or cash contributions. Please note, Rating Criteria D specifically awards points for the use of leveraged resources. While the failure to offer leveraged resources as a part of an application will not preclude consideration of the application, it will place the applicant at a significant disadvantage since one of the evaluation criteria evaluates the quality of leveraged resources. Applicants must describe in detail how such leveraged funds will be used and demonstrate how these funds will contribute to the goals of the project.

• High Performance Outcomes. DOL expects that 225 ex-offenders through the adult criminal justice system will be served during the first year of operation at each site awarded a grant under this SGA. The measured outcomes for this initiative will include education or job training, placement in employment, increased retention, and reduced recidivism. The ultimate success of this project will hinge upon the strength of these quantifiable results.

• Replicability. As mentioned above, this SGA will test the beneficiary-choice model in the context of services provided to ex-offenders. If successful, materials will be created from this program that will provide substantive guidance to Federal, State and local agencies for implementation of beneficiary-choice contracting—both in reentry services and a wide array of other government-funded services.

5. Examples of Projects That Could Be Funded Under This Solicitation

Types of projects that could be funded under this SGA include, but are not limited to, the following examples. Please note that these are only examples, and applicants are encouraged to propose alternative approaches. All proposals will be judged on their own merits.

Example 1

Project Hope of Sklar County, a non-profit 501(c)(3) organization, is awarded a $1,000,000 grant under the Beneficiary-Choice Contracting Pilot Program. It will serve as the central services coordinator. Project Hope formalizes its plans and documents laying out the services it and its future partners will provide, and then aggressively publicizes an informational meeting for social service providers that would be willing to contract with Project Hope to serve ex-offenders.

Ultimately, Project Hope enters formal contracts with six non-profit organizations and one for-profit organization: Dreams Unlimited, Kronberg Service Center, Shepherd of the Valley Fellowship, The Sklar Jewish Union, Anglican Ministries, and Briggs Work Aid, Inc. Project Hope will be known as the ''services coordinator,'' and the six contractors will be known as specialized service providers. At least one of the non-profit organizations, Kronberg Service Center, will offer an entirely non-religious program, as does Briggs Work Aid, Inc.

Project Hope will identify and recruit ex-offenders, working closely with the local criminal justice agency. It will provide basic intake services and needs assessments to each participant, and offer participants information on the differences between each of the six specialized service providers. Participants are then free to choose from among the six providers for the services

they will receive. Participants that opt to receive services with religious content must sign an informed consent form.

In addition to its contractual relationships with the specialized service providers, Project Hope will provide participants with an in-depth referral list of service providers that includes both religious-based and non-religious-based (secular) specialized services. In addition, it maintains regular contact with the local One-Stop Career Center, ensuring that participants make full use of all services available through the local One-Stop Career Center, including Individual Training Accounts to address their needs beyond those met by the core services provided.

Once the participant is referred to the specialized service provider, Project Hope will continue to provide overall case management, ensure that the participant has access to other available complementary resources, and compile data collection on all participants.

Under the terms of the contracts, each of the six organizations will provide certain core services, including work readiness training (*e.g.* soft skills, life skills and/or basic skills), career counseling and follow-up with participants post program activity. In addition, each organization will make a unique combination of supplementary services available to the participants it serves. For example, Dreams Unlimited offers counseling, substance abuse prevention training, English proficiency courses, financial literacy education and job placement services. Both the Kronberg Service Center and Shepherd of the Valley Fellowship offer one-on-one mentoring, GED preparation, and child care services. Sklar Jewish Union offers group mentoring, individual counseling, and a six-month residential substance abuse recovery program. Anglican Ministries provides transitional housing and child care services. Briggs Work Aid, Inc provides job placement and retention services as well as several different supportive services including bus passes and appropriate interview attire.

The contracts set out clear guidelines for compensation to the specialized service providers, which is provided monthly on a per capita basis. Project Hope will provide $500 for each participant that chooses and is subsequently registered by a specialized service provider. It will then provide $400 for each participant that completes the specialized service providers' soft skills curriculum. Project Hope will provide additional performance-based compensation of $1,800 per participant that achieves one of three major milestones: Holding unsubsidized employment for more than 90 days, completing an accredited vocational training certification or at least one semester at an accredited institution of higher learning, or acquiring a GED.

Project Hope will contribute $75,000 of its own funds so that it can serve approximately 300 participants rather than the minimum of 225. In addition, it has received a $100,000 grant from the Lokkesmoe Foundation that Project Hope will use to pay the community college or vocational school fees of participants that opt to seek further education.

Example 2

The local One-Stop Career Center serves as the services coordinator and enters contracts with specialized service providers to deliver services. The One-Stop Career Center will provide all of the services of the services coordinator listed above—identify and recruit ex-offenders, identify and recruit specialized service providers, provide basic intake services, including assessment of needs and interests, offer each participant a choice among service providers (including at least one provider of non-religious-based (secular) services), require informed consent forms of individuals choosing services with religious content and provide case management. The One-Stop Career Center will also be uniquely suited to making full use of all training and placement services available through the workforce investment system—including, when possible, Individual Training Accounts. In addition to its contractual relationships with the specialized service providers, the One-Stop Career Center will provide participants with an in-depth referral list of service providers that includes both religious-based and non-religious-based (secular) services.

As grant manager, the One-Stop Career Center is also responsible for designing guidelines for specialized service providers' participation, recruiting providers of targeted services, ensuring at least one provider of non-religious services, establishing performance-based contracts with the provider organizations, overseeing grant data collection procedures and compilation and fiscal controls, delivering contract payment to service providers, and performing all other aspects of managing the Federal grant. The One-Stop Career Center also has an agreement with the local criminal justice agency for participant recruitment purposes.

The network of specialized service providers is composed of faith-based and community organizations (FBCOs) as well as other service providers.

Each specialized service provider must enter a contract committing to provide soft-skills training (i.e. work readiness, life skills and/or basic skills), career counseling and long-term follow up, and most providers provide supplementary services. Providers receive compensation of $300 as a registration fee for each participant that chooses to enter their program. In addition, providers will receive $900 for each participant that completes the soft-skills training offered by the provider. They will receive $900 if the participant remains out of prison for 90 days. They will receive $500 if the participant remains retained in employment for 90 days, and an additional $500 for 180 days of employment. (The One-Stop Career Center is aware that if all participants achieved performance goals, the cost of $3,100 per participant it would add up to more than the grant provides. However, the One-Stop Career Center will make up for this short-fall both by additional financial contributions and the fact that a certain percentage of program participants will not achieve performance goals.)

Part II. Award Information

1. Award Amount

ETA intends to fund grants for five projects, to serve 225 individuals (age 18 to 29) through the adult criminal justice system, per year, at an average annual grant amount of $1,000,000 per site. Applicants may submit proposals within the range of $800,000 to $1,200,000. A larger or smaller amount may be requested based on the number of participants proposed to serve, but deviations from this amount must be clearly justified in the application.

2. Period of Performance

The period of grant performance will be 22 months from the date of execution of the grant document. This performance period shall include 4 months of organizational preparation, 12 months of service delivery, and six months of follow-up data collection. Depending on the availability of funds and satisfactory performance, additional years of funding may be available for these grants. In addition, ETA may elect to exercise its option to award no-cost extensions to these grants for an additional period based on the satisfactory progress of the program in placing participants in jobs, education, training, mentoring, and reducing the recidivism of participants.

The probability of continuation of grants beyond the initial period of grant

performance will be greatly reduced for those grantees that do not begin providing services by the end of the first four months. No more than ten percent of the services coordinator budget is to be used in the four-month planning period. Grantees are expected to reserve a portion of their grant funding to continue to report on recidivism and employment outcomes for up to six months after services end.

Part III. Eligibility Information

1. Eligible Applicants

Applicants must be either a faith-based or community organization that is exempt from taxation pursuant to 26 U.S.C. 501(c)(3) at the time of application submission, or a government agency (such as a Workforce Investment Board, One-Stop Career Center, corrections agency, State or local government, housing authority). The applicant will be the lead organization that will represent a partnership system that consists of the public workforce system, the local corrections agency and other social services providers (including faith-based and community organizations). At least one of the contracted specialized service providers offered to participants must offer a program that contains no religious content.

As stated above, applicants must demonstrate the existence of a partnership with both their local Workforce Investment Board/One-Stop Career Center system and their local corrections agency. In addition to relationships with both these organizations and specialized services sub-contractors, collaborations are also encouraged with other entities, including child welfare and foster care agencies, substance abuse treatment providers, social service agencies, education and training providers, business representatives, transitional housing providers, health care providers, etc. These providers may fill a role as sub-grantees. A single organization, or its affiliates, cannot serve as both coordinator and specialized service provider.

ETA expects to make five awards including a minimum of two to faith-based and community organizations.

2. Grantee Resources

There is no matching requirement for these grants. However, applicants will be rated in part on their ability to demonstrate commitments of leveraged resources.

3. Other Eligibility Requirements

Beneficiary Eligibility. Individuals aged 18 to 29 who have been convicted of a Federal or State crime through the adult criminal justice system, are returning from a State institution, and are not currently enrolled in a traditional program may be served by these grants. This includes but is not limited to individuals returning from correctional facilities or detention centers, half-way houses, and those under State supervision that have transitioned from a State prison to a local jail prior to release. Participants must enroll in the program within 60 days after release from the criminal justice system.

Veterans Priority. This program is subject to the provisions of the ''Jobs for Veterans Act,'' (Pub. L. 107–288, 38 U.S.C. 4215), which provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by DOL. To obtain priority of service, a veteran must meet the program's eligibility requirements. ETA Training and Employment Guidance Letter (TEGL) No. 5–03 (Sept. 16, 2003) at *http://www.doleta.gov/Seniors/other_docs/TEN5_03_VETS.pdf* provides general guidance on the scope of the veterans priority statute and its effect on current employment and training programs.

Part IV. Application and Submission Information

1. Address To Request Application Package

This announcement includes all information and links to forms needed to apply for this funding opportunity.

2. Content and Form of Application Submission

The proposal must consist of two (2) separate and distinct parts, Parts I and II. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be considered.

Part I of the proposal is the Cost Proposal and must include the following three items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (also available at *http://www.grants.gov/agencies/approved_standard_forms.jsp#1*). The SF 424 must clearly identify the applicant and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF424 on behalf of the applicant shall be considered the authorized representative of the applicant.
- All applicants for Federal grant and funding opportunities are required to have a Dun and Bradstreet (DUNS) number. See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants must supply their DUNS number on the SF 424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access this Web site: *http://www.dunandbradstreet.com* or call 1–866–705–5711.
- The Budget Information Form SF 424A (available at *http://www.doleta.gov/sga/forms.cfm*). In preparing the SF 424A, the applicant must provide a concise narrative explanation to support the request. The budget narrative should break down the budget and leveraged resources by the project activities specified in the technical proposal and should discuss precisely how the administrative costs support the project goals. The budget narrative must also provide a detailed back-up budget that includes the number of staff to be hired by job title.

Part II of the application is the Technical Proposal, which demonstrates the applicant's capabilities to plan and implement the grant project in accordance with the provisions of this SGA. The guidelines for the content of the Technical Proposal are provided in Section V(1) of this SGA; emphasis should be placed on the areas listed in Section I(4) of this SGA. The Technical Proposal is limited to fifteen (15) double-spaced, single-sided 8.5 inch by 11 inch pages with twelve point text font and one-inch margins. Any pages over the 15 page limit will not be reviewed.

In addition, the applicant must provide:

- MOAs from the partnering agencies,
- MOAs from the specialized service providers,
- a time line outlining project activities, and a
- two-page Executive Summary summarizing the proposed project and applicant profile information including: (1) Applicant name; (2) project title; and (3) requested funding level.

These additional materials do not count against the fifteen (15) page limit for the Technical Proposal. The additional materials may not exceed (15) fifteen pages in addition to the Technical Proposal.

Please note that applicants that fail to provide a SF 424, SF 424A and/or a budget narrative will be removed from consideration prior to the technical

review process. If the proposal calls for integrating WIA or other Federal funds or includes other leveraged resources, these funds should not be listed on the SF 424 or SF 424A Budget Information Form, but should be described in the budget narrative and in Part II of the proposal. The amount of Federal funding requested for the entire period of performance should be shown together on the SF 424 and SF 424A Budget Information Form. Applicants are also encouraged, but not required, to submit OMB Survey No. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found at *http://www.doleta.gov/sga/forms.cfm*.

Except for the discussion of match and leveraged resources in response to the evaluation criteria, no cost data or reference to prices should be included in the technical proposal. Please note that applicants should not send letters of commitment or support separately to ETA because letters are tracked through a different system and will not be attached to the application for review.

Applications may be submitted electronically on www.grants.gov or in hard-copy via U.S. mail, professional delivery service, or hand delivery. These processes are described in further detail in Section IV(3). Applicants submitting proposals in hard-copy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hard-copy are also requested, though not required, to provide an electronic copy of the proposal on CD–ROM.

3. Submissions Dates, Times, and Address

The closing date for receipt of applications under this announcement is May 25, 2007. Applications must be received at the address below no later than 4 p.m. (Eastern Time), except as identified in the ''Late Applications'' paragraph below. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications that do not meet the conditions set forth in this notice will not be considered. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Eric Luetkenhaus, Reference SGA/DFA PY–06–14, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand delivered applications will be received at the above address.

Applicants may apply online at *http://www.grants.gov* by the deadline specified above. Any application received after the deadline will not be accepted. For applicants submitting electronic applications via Grants.gov, please note that it may take several days to complete the ''Get Started'' steps to register with Grants.gov at *http://www.grants.gov/GetStarted*. It is strongly recommended that these applicants immediately initiate this step in order to avoid unexpected delays that could result in the disqualification of their application. If submitted electronically through *http://www.grants.gov,* applicants should save application documents as a .doc or .pdf file.

Late Applications. Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made, was properly addressed, and: (a) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application required to be received by the 20th of the month must be post marked by the 15th of that month) or (b) was sent by professional overnight delivery service or submitted on Grants.gov to the address not later than one working day prior to the date specified for receipt of applications. It is highly recommended that online submissions be completed one working day prior to the date specified for receipt of applications to ensure that the applicant still has the option to submit by overnight delivery service in the event of any electronic submission problems. ''Post marked'' means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the package. Failure to adhere to the above instructions will be a basis for a determination of non-responsiveness. Evidence of timely submission by a professional overnight delivery service must be demonstrated by equally reliable evidence created by the delivery service provider indicating the time and place of receipt.

There will be an informational webinar held for this grant competition. Information on the date/time of this webinar and a recording for applicants who cannot attend will be available on *http://www.dol.gov/cfbci*.

4. Intergovernmental Review

This funding opportunity is not subject to Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.''

5. Funding Restrictions

All proposal costs must be necessary and reasonable in accordance with Federal guidelines. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, as identified in OMB Circulars A–122, A–87, A–21 or at 48 CFR part 31 (*See* 29 CFR 95.27, 97.22). Disallowed costs are those charges to a grant that the grantor agency or its representative determines not to be allowed in accordance with the applicable Federal cost principles or other conditions contained in the grant. Applicants will not be entitled to reimbursement of pre-award costs.

Regulations governing the treatment in government programs of religious organizations and religious activities can be found at 29 CFR part 2, subpart D. Grantees and subawardees are expected to be aware of and observe the regulations in this subpart. Provisions relating to the use of indirect Federal support, such as through vouchers or other choice mechanisms, are found within 29 CFR part 2, subpart D at 29 CFR 2.33(c) and at 20 CFR 667.266. Additional information about the proper, constitutional use of ''indirect'' Federal financial assistance can be found in Training and Employment Guidance Letter (TEGL) 1–05. See *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2088*.

Due to the fact that subawardees are paid through indirect funding (the beneficiary-choice contracting model), subawardees may make inherently religious activities (e.g. religious instruction, prayer, proselytizing, etc.) an integrated part of their federally-supported program and may require participants to participate in them. Indirect assistance may be used for religious activities, because the customer has exercised his/her genuine and independent choice by freely selecting the program with religious aspects or content from among a variety of options, both secular and religious. As a result, participation in the religious activities is considered voluntary. The

recipient, therefore, may use indirect Federal assistance to train a participant in religious activities. However, pursuant to Section 188(a)(3) of the Workforce Investment Act of 1998, 29 U.S.C. 2938(a)(3), a subawardee may not employ participants to construct, operate, or maintain any part of any facility that is used or to be used for religious instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants). See 29 CFR 37.6(f).

Indirect Costs. As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular cost objective. In order to utilize grant funds for indirect costs incurred, the applicant must obtain an Indirect Cost Rate Agreement with its Federal cognizant agency either before or shortly after the grant award.

Administrative Costs. Under the WIA, Preparing Ex-Offenders for the Workplace through Beneficiary-Choice Contracting, an entity that receives a grant to carry out a project or program may not use more than 10 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be both direct and indirect costs and are defined at 20 CFR 667.220. Administrative costs do not need to be identified separately from program costs on the SF 424A Budget Information Form. They should be discussed in the budget narrative and tracked through the grantee's accounting system. Although there will be administrative costs associated with the managing of the partnership as it relates to specific grant activity, the primary use of funding should be to support the actual training activity(ies). To claim any administrative costs that are also indirect costs, the applicant must obtain an indirect cost rate agreement as described above.

Expenditures by the services coordinator on its own activities and expenses cannot account for more than 40% of total grant funds. This includes funds reserved for services and program administration, including technical assistance and oversight. At least 60% must be spent on services for participants through specialized service providers serving program participants.

6. Other Submission Requirements

Withdrawal of Applications. Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative signs a receipt for the proposal.

V. Application Review Information

1. Rating Criteria

This section identifies and describes the criteria that will be used to evaluate the proposals submitted in response to this solicitation. These criteria and point values are:

Criterion	Points
A. Need for the Project	10
B. Program Management and Organization Capacity	25
C. Project Design and Service Strategy	40
D. Linkages to Key Partners and Leveraged Resources	25
Total Possible Points	100

A. Need for the Project (10 Points)

The applicant should demonstrate the need for the project by providing information on the number of ex-offenders in the area to be served and the justification of the need for the project in the community served by the grant. Use local data to identify the number of ex-offenders between the ages of 18 and 29 returning to your community through the adult criminal justice system and how this compares with the State or county as a whole. If there are particular neighborhoods within the city in which you plan to focus this grant, describe these neighborhoods and provide available data specific to that area. If possible, provide such data for the specific neighborhoods that you plan to serve rather than county-wide data.

Discuss the services or lack of services in your area that exist to assist this population. Discuss the extent of criminal activity in the area that you will be serving and include all other information relevant to establishing the need for your project, including recidivism rate, crime rate, etc.

Discuss the proposed service strategy; describe how it will address the lack of services available in the area targeted for the grant activities and how it will ensure that participants are prepared for and placed and retained in jobs.

Scoring on this factor will be based on evidence of the following:

- The need in the area served, including the crime rate and annual number of returnees to your city, county, State and proposed targeted area; and
- The dearth of services provided to this population and how and why they need to be served.
- Your description of how the proposed service strategy will address the identified gaps and ensure that clients are prepared for, placed in, and retained in jobs.

B. Program Management and Organization Capacity (25 points)

The applicant should demonstrate the capability of providing the services proposed and of acting as the Services Coordinator.

The Services Coordinator must (1) provide basic services; (2) manage contracts; and (3) establish and maintain strong referral networks for services not funded by this grant.

(1) Provide Basic Services (5 Points). Describe the experience/capacity of staff (or criteria for staff you will hire) and the organization, in serving ex-offenders. In addition, and as stated above, these services should include but are not limited to the following:

- Identify and recruit participants;
- Provide basic intake services, including assessment of needs and interests;
- Offer each participant a free, independent, and informed choice among service providers—including at least one provider of secular non-religious-based services;
- Require informed consent forms from individuals choosing services that contain religious content;
- Provide ongoing case management (in coordination with the specialized services provider); and
- Aid recipients in making full use of all services available through local One-Stop Career Center, including, when possible, Individual Training Accounts.
- Recruit employers that are willing to employ program participants.

(2) Manage Contracts (10 Points). Describe the experience/capacity of the organization's staff in managing contracts and managing sub-contractors. Specifically include organizational capabilities and previous history of managing choice-based programs and data systems, infrastructure to manage and support choice-based programs, and any performance-based contracting experience. As stated above, these services should include but are not limited to the following:

- Design guidelines and baseline criteria for service provider organizations' participation. These

objective criteria would require a level of quality in basic services offered. In addition, preference in selecting specialized service provider contractors should be given to organizations that provide a diverse offering of supplementary services;

- Recruit a minimum of five specialized service providers—including FBCOs;
- Ensure at least one at least one provider of secular non-religious-based services;
- Establish performance-based contracts with service provider organizations;
- Develop a data collection strategy and oversee the management information system (MIS) grant data collection procedures and compilation for all partners in the program;
- Aid service providers in complying with necessary reporting and other compliance issues;
- Deliver contract payments to service providers; and
- Perform all other aspects of managing the Federal grant—including fiscal controls.

(3) Establish and Maintain a Strong Referral Network (10 Points). Describe the experience/capacity of the applicant and key grantee staff in working with other organizations that provide different services. Service coordinators must also develop a referral system to address participant needs beyond those addressed by the core services. The service coordinator must develop a functional referral system to provide participants referrals to other specialized services beyond core services that might not be met through specialized service providers. Through this referral process the service coordinator will ensure that that there is at least one provider of non-religious-based (secular) service if that same specialized service is offered through religious-based service by the sub-contractors. Services that the coordinator may provide referrals for include transitional housing, substance abuse treatment, health services (including mental health services and counseling), continuing education system (including alternative schools and community colleges), and the One-Stop Career Center. The services coordinator will maintain relationships with organizations/entities offering these specialized services and must keep updated information on each referral partner to ensure there is always a current list of referral partners. This referral list must be kept separate from the specialized service provider list.

The applicant must also include a description of organizational capacity and the organization's track record as an intermediary, working with this population, and managing a grant of this size. Applicants must identify a project manager, discuss the proposed staffing pattern and the qualifications and experience of key staff members, provide detailed descriptions of the roles of the participating partners, and give evidence of the existence and utilization of data systems to track outcomes.

Scoring on this factor will be based on evidence of the following:

- The organization's capabilities and previous history of providing case management and assessment services to ex-offenders, including the basic services previously listed, managing grants and sub-contractors, including those compensated through a performance-based process, and developing and maintaining strong partnerships with community service providers to which participants might be referred. Applicants must demonstrate the infrastructure to manage and support this type of program.
- The time commitment of the proposed staff is sufficient to assure proper direction, management, and timely completion of the project.
- The roles and contribution of staff, consultants, and collaborative organizations are clearly defined and linked to specific objects and tasks.
- The background, experience, and other qualifications of the staff are sufficient to carry out their designated roles.
- The applicant organization has the capacity to accomplish the goals and outcomes of the project, including project management, has appropriate systems to track outcome data and establishes and maintains a strong referral network.
- The proposed referral plan including ensuring that that there is at least one provider of non-religious-based (secular) service if that same specialized service is offered through religious-based service by the sub-contractors.

C. Project Design and Service Strategy (40 points)

Please describe your project design and service strategy. This section should be divided into six parts.

I. Requirements for and Identification of Specialized Service Providers.

II. Recruiting and Referral from the Criminal Justice System.

III. Assessment and Initial Services for Participants.

IV. Participant Opportunity to Choose/Referral to Specialized Provider.

V. Case Management, Relationship with the Workforce Investment System and Referral for Supplemental Services or Training.

VI. Expected Outcomes and Follow-Up Management with Specialized Providers and Ensuring Appropriate Grants Management and Outcomes.

I. Requirements for and Identification of Specialized Service Providers (5 Points)

Describe the baseline requirements that are needed for organizations to become specialized service providers. How will the applicant identify and recruit a diversity of specialized service providers, including faith-based and community organizations? What types of agreements will the applicant enter into with these organizations? What steps will the applicant take (or has the applicant taken) to ensure that there is at least one provider of secular non-religious-based services? What procedures with the applicant employ to ensure adequate diversity in services provided by the selected specialized services providers—including preference in selecting specialized service provider contractors should be given to organizations that provide a diverse offering of supplementary services? The applicant must submit a detailed Memorandum of Agreement (MOA) with at least three specialized service providers that describe the specialized service provider's firm commitment to act as a subcontractor in the program. This will describe the role of the services coordinator and specialized service provider, the services provided, and the method of payment for these services. A minimum of five specialized service providers must be a part of each grant program when services begin.

Scoring on this criterion will be based on the applicant's ability to demonstrate:

- The existence of an outreach/identification strategy which will be aggressive, inclusive and clear for potential providers—including faith based and community organizations and at least one non-religious provider.
- The existence of guidelines and baseline criteria for service provider organizations' participation. These objective criteria would require a level of quality in basic services offered. In addition, preference in selecting specialized service provider contractors should be given to organizations that provide a diverse offering of supplementary services.
- A plan for recruiting additional specialized service providers, including identification of basic requirement for participation as a specialized service

provider, and what additional services the applicant anticipates will be provided by additional specialized service providers.

• MOAs with at least three specialized service providers. MOAs with additional specialized service providers are encouraged. A minimum of five specialized service providers must be a part of each grant program when services begin.

II. Recruiting and Referral From the Criminal Justice System (5 Points)

Describe how participants will be recruited into the program. Identify and describe how the criminal justice system partners will refer participants to the program. Describe how coordination and communication will be maintained between probation and parole offices and the applicant, in the areas of recruiting, pre-release service provision, program participation and follow-up.

Scoring on this criterion will be based on the applicant's ability to demonstrate:

• The existence of a sound strategy for coordinating with the local criminal justice system for the referral of, and joint services for, participants into the program; and

• The existence of a sound strategy for coordinating with the probation and parole offices throughout program involvement and during post-program follow-up.

III. Assessment and Initial Services for Participants (5 Points)

Describe the services that will be provided to the participants when they are recruited into the program. Identify what assessment tools and methods will be used to determine the skills, aptitudes and needs of participants. Describe the specific strategies and methods that will be used to meet the different needs of the participant and how these build on services already available in the community.

Scoring on this criterion will be based on the applicant's ability to demonstrate:

• A quality assessment that will provide the applicant with the proper information needed to meet all of the needs of the participant, both through specialized service providers, and referrals to other community services.

IV. Participant Opportunity to Choose/ Referral to Specialized Provider (5 Points)

Applicants should explain how participants will be referred once he or she has chosen a specialized services provider. Applicants will also describe how this choice will be explained to program participants and the process that will be used for the referral. Describe examples of specialized service providers and the types of services they will provide.

Scoring on this criterion will be based on the applicant's ability to demonstrate:

• A clear plan for how a free, independent and informed choice of service providers will be presented to and made by the participant.

V. Case Management, Relationship with the Workforce Investment System and Referral for Supplemental Services or Training (5 Points)

Describe the case management strategy that your organization will use throughout the program. What services will be provided through case management and how often will you communicate with the participant to make sure he/she receives the services that are needed. Describe how the applicant will coordinate case management with the specialized services providers.

Describe the approach that will be used in the project, including the sequence of services (i.e., assessments, training, etc.), how the specific services for participants are determined, and which partner/specialized service provider will provide which services. In addition, identify the supportive services that will be provided to participants and describe how such services will facilitate participation. Identify which support services will be provided by the grantee pre- and post-placement, as well as intra- and post-training. Indicate which services will be provided by project partners or from sources other than the grant.

Describe the job placement strategies that will be used in the program. Describe the rationale for deciding which services are necessary for participants to attain, retain or advance in the job. Discuss the extent to which the One-Stop Career Center will assist in the job training, placement and retention efforts.

Describe the approach for referring participants to supplemental services or training available from existing service providers in the community. Scoring on this criterion will be based on the applicant's ability to demonstrate:

• A continuous and coordinated case management plan that will assist the participant through the entire program—including post placement;

• The link between the basic service provider (the grantee), the specialized service provider, the workforce investment system, the criminal justice system, and other needed supportive services;

• The referral process for linking participants to non-partner service and job training providers operating in the community.

VI. Expected Outcomes and Follow-Up Management With Specialized Providers and Ensuring Appropriate Grants Management and Outcomes (15 Points)

DOL expects that each project site will serve 225 ex-offenders through the adult criminal justice system, ages 18–29, each year and that outcomes will include placement in employment, job retention, and reduced recidivism. While it is recognized that some participants will not achieve the desired outcomes, to be counted toward the 225 ''served'' a participant must receive at least registration and case management and be enrolled by the specialized service provider. At least 200 participants must receive soft-skills training and career counseling from a specialized service provider.

As DOL expects this definition to be used for determining the number of participants served, applicants should expect to enroll more than 225 individuals as some participants may not arrive at the specialized service provider to which they are referred.

As stated before, four outcome measures will be used to measure success in these grants: entered employment rate, employment retention rate, earnings, and recidivism rate. In addition, grantees will report on a number of leading indicators that will serve as predictors of success. Leading indicators will include: enrollment rate; participation in education/training; workforce preparation; mentoring; attainment of degrees and certificates; reduced substance abuse; proportion of enrollees in stable housing (beyond 90 days post-release); and proportion of enrollees complying with parole conditions.

Discuss the outcomes for the proposed project and how these outcomes will be attained, taking into consideration that participants entering this program may have low basic skills levels and may require extensive remediation and skills training. Also provide realistic numerical goals for each of these outcome measures. The discussion of outcome goals should include the methods proposed to collect and validate outcome data in a timely and accurate manner. Note that these will represent the expected levels of performance. DOL will negotiate the actual levels of performance on these

measures with grantees after grant award.

Discuss the payment system for services provided.

Discuss the data collected/reporting system for both the specialized services provider and the Service Coordinator. It is required that all applicants track employment for at least six months and recidivism for at least one year.

Discuss the follow-up services that will be provided by the applicant and the specialized service provider after the participant has been placed into employment.

Also, provide a timeline outlining project activities, including expected start-up, implementation, participant follow-up for performance outcomes, grant close-out and other activities. Provide an MOA from at least three potential specialized service providers. Describe a plan for sustainability once the grant is over, including a timeline. Describe efforts the applicant will make to ensure that the program is replicable.

Scoring on this criterion will be based on the applicant's ability to demonstrate:

- A service plan/project design that provides solutions to the challenges experienced by the ex-offender population to be served while addressing the need for training, employment and job retention;
- Outcomes projected for the program, including whether the program structure is likely to produce the stated outcomes;
- A solid data collection system that effectively tracks participants and outcomes;
- A solid management structure that includes a payment schedule for specialized service providers;
- The existence of a work plan that is responsive to the applicant's statement of need and target population, and that includes specific goals, objectives, activities, implementation strategies, and a timeline;
- The ability of the applicant to achieve the stated outcomes within the time frame of the grant;
- The appropriateness of the outcomes with respect to the requested level of funding;
- The appropriateness of the payment system for services provided;
- An MOA with at least three specialized service providers;
- The extent to which the project is sustainable; and
- The extent to which the project is replicable.

D. Linkages to Key Partners and Leveraged Resources (25 points)

Linkages to Key Partners (20 points). Applicants must demonstrate the existence of partnerships. DOL encourages, and will be looking for, applications that go beyond the minimum level of partnerships and demonstrate broader, substantive, and sustainable partnerships. The applicant must identify the partners and explain the meaningful role each partner plays in the project as well as how resources will be leveraged among the partners.

Describe plans to work as a partner with the local One-Stop Career Center to help the target population receive services, enter employment, and succeed in the workforce. If the applicant has not previously worked with a One-Stop Career Center, describe actions you have taken to develop a relationship with a One-Stop Career Center. If the applicant has worked with a One-Stop Career Center in the past, describe what actions have been taken to further develop the relationship. Attach an MOA from the local One-Stop Operator describing the formal referral partnership with the local Workforce Investment Boards and/or local One-Stop Operator(s) with whom the applicant is working or with whom the applicant has developed a relationship as this proposal has been developed. The MOA should define the applicant's plans to create a formal referral relationship with the One-Stop Career Center as a provider of services that complement the services offered by the One-Stop Career Center. This formal partnership should produce two-way client referrals from the One-Stop Career Center to the applicant and from the applicant to the One-Stop Career Center on which the applicant will be required to report.

Describe plans to work as a partner with the local corrections agency. Attach an MOA from at least one local corrections agency with which the applicant will work on this project. This document should also describe the corrections agency's firm commitment to enter a formal referral partnership with the applicant. Discuss how this partnership will produce referrals from the local detention facility to the grantee. If applicable, discuss planned pre-release sessions with soon-to-be-released inmates on the specific elements of the proposed program—especially in the area of mentoring. The letter must describe that the corrections agency has acknowledged that the applicant organization provides reentry services that will assist former inmates. If possible, the letter should also include the corrections agencies agreement to assist in tracking recidivism of participants. If an agreement with the local corrections agency is not provided, the applicant should, at a minimum, demonstrate that the agency was contacted and provided a sufficient opportunity for response. Similar agreements with parole and probation agencies are also encouraged.

Describe the relationships the applicant has with other non-profit organizations that provide similar or complementary services. Explain how the applicant will leverage pre-existing relationships and partnerships to help achieve the proposed goals for the target populations and how the applicant will avoid duplication of existing services. If no relationships with other non-profit organizations exist, explain the reason and how the applicant plans to develop new relationships.

Scoring on this criterion will be based on: (a) the applicants ability to fully demonstrate the comprehensiveness of the partnerships and the degree to which each partner plays a committed role, either financial or non-financial in the proposed project; (b) the breadth and depth of each key partner's contribution, their knowledge and experience concerning grant activities and their ability to impact the success of the project; and (c) evidence, including MOAs, that key partners have expressed a clear dedication to the project and understand their areas of responsibility.

Important factors include:

- The extent to which the project will work collaboratively with the public workforce investment system;
- The extent to which the project will work collaboratively with the local corrections agency;
- The number of partners involved and their knowledge and experience concerning the proposed grant activities, and their ability to impact the success of the project;
- The overall completeness of the partnership, including its ability to manage all aspects and stages of the project and to coordinate individual activities with the partnership as a whole;
- Evidence that key partners have expressed a clear commitment to the project and understand their areas of responsibility, including an MOA from the key partners;
- Evidence of a plan for interaction between partners at each stage of the project, from planning to execution; and
- Evidence that the partnership has the capacity to achieve the outcomes of the proposed project.

Leveraged Resources (5 points). Applicants should clearly describe any funds and resources leveraged in support of grant activities and demonstrate how these funds will be used to contribute to the goals of the

project. Applicants must describe in detail how such funds will be used, the source of funds, and how these funds will contribute to the goals of the project. This applies to funds leveraged from businesses, faith-based and community organizations, and Federal, State, local and/or private organizations. The description of leveraged resources must be supported by explicit MOAs and describe the resource amount and type (in-kind, cash, etc.). For any leveraged resources, applicants should fully describe through the MOA how the value of the resources was calculated and how those resources support the grant program.

Scoring on this factor will be based on the extent to which the applicant fully describes the amount, commitment, nature, and quality of leveraged resources. Applicants will be scored based on the degree to which the source and use of funds is clearly explained and the extent to which leveraged resources are fully integrated into the project to support grant outcomes. Important elements of the explanation include:

- Which partners have contributed leveraged resources and the extent of each contribution, including an itemized description of each contribution;
- The quality of leveraged resources, including the purpose of the funds and the extent to which each contribution will be used to further the goals of the project; and
- Evidence, stated in the MOAs, that key partners have expressed a clear commitment to provide the contribution.

2. Review and Selection Process

Applications will be accepted after the publication of this announcement until the closing date. A technical review panel will make careful evaluation of applications against the criteria set forth in Section V.1 of this Solicitation. These criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 100 points may be awarded to an application based on the required information described in Section V of this Solicitation. The ranked scores will serve as a primary basis for selection of applications for funding, in conjunction with other factors such as urban, rural, and geographic balance; the availability of funds; the proportion of governmental and non-profit grantees; and which proposals are most advantageous to the Government. The panel results are advisory in nature and not binding on the Grant Officer, who may consider any information that comes to his attention. DOL may elect to award the grant(s) with or without prior discussions with the applicants. Should a grant be awarded without discussions, the award will be based on the applicant's signature on the SF 424, which constitutes a binding offer.

Part VI. Award Administration Information

1. Award Notices

All award notifications will be posted on the ETA Homepage at *http://www.doleta.gov.*

2. Administrative and National Policy Requirements

All grantees, including faith-based organizations, will be subject to all applicable Federal laws (including provisions of appropriation laws), regulations, and the applicable OMB Circulars. The applicants selected under this SGA will be subject to the following administrative standards and provisions, if applicable:

- Workforce Investment Act—20 Code of Federal Regulations (CFR) Part 667 (General Fiscal and Administrative Rules).
- The Workforce Investment Act of 1998, U.S.C. 2801 *et seq.*
- Workforce Investment Act Regulations codified at (20 CFR pts. 660–671).
- OMB Circulars, A–122 Cost Principles, A–21 Cost Principles, A–87 Cost Principles, 48 CFR part 31 Cost Principles.
- 29 CFR part 2, Subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations, Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries;
- 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964;
- 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance;
- 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor;
- 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;
- 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 (WIA).
- 29 CFR part 93—Lobbying;
- 29 CFR part 95—Grants and Agreements with Non-Profit Organizations, Commercial Organizations, International Organizations, Foreign Governments, and Others;
- 29 CFR part 96—Audit Requirements for Grants, Contracts and Other Agreements;
- 29 CFR part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;
- 29 CFR part 98—Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug-Free Workplace; and
- 29 CFR part 99—Audits of States, Local Governments, and Non-Profit Organizations.

Note: Except as specifically provided in this notice, ETA's acceptance of a proposal and award of Federal funds to sponsor any programs(s) does not provide a waiver of any grant requirements and/or procedures. For example, the OMB Circulars require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide full and open competition. If a proposal identifies a specific entity to provide services, ETA's award does not provide the justifications or basis to sole-source the procurement, *i.e.*, avoid competition, unless the activity is regarded as the primary work of an official partner to the application.

3. Reporting Requirements

Successful applicants will be required to submit performance information as well as Quarterly Financial Reports and Quarterly Progress Reports.

Quarterly Financial Reports. A Quarterly Financial Status Report (SF 269) is required until such time as all funds have been expended or the grant period has expired. Quarterly financial reports are due thirty days after the end of each calendar year quarter. Grantees must use ETA's On-Line Electronic Reporting System.

Quarterly Progress Reports. The grantee must submit a quarterly progress report to the designated Federal Project Officer within thirty days after the end of each calendar year quarter. Two copies are to be submitted providing a detailed account of activities undertaken during that quarter. The Department may require additional data elements to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet the Department's reporting requirements.

The quarterly progress report should be in narrative form and must include:

1. In-depth information on accomplishments, including number of clients served, which services were

provided, referrals made, recidivism statistics, project success stories, upcoming grant activities, promising approaches and processes, and progress in achieving performance outcomes;

2. Challenges, barriers, or concerns regarding project progress;

3. Lessons learned in the areas of project administration and management, successful referral structures, project implementation, partnership relationships and other related areas.

MIS Data. Grantees will be required to submit updated MIS data on enrollment, services provided, placements, outcomes, and follow-up status. DOL will coordinate with sites after grant award to implement an MIS system for this project.

Part VII. Agency Contacts

Any technical questions regarding this SGA should be faxed to Melissa Abdullah, Grants Management Specialist, Division of Federal Assistance, at (202) 693–2705. This is not a toll-free number. You must specifically address your fax to the attention of Melissa Abdullah and should include SGA/DFA PY 06–14, a contact name, fax, and telephone number.

FOR FURTHER INFORMATION CONTACT: Please contact Melissa Abdullah, Grants Management Specialist, Division of Federal Assistance, on (202) 693–3346. This is not a toll-free number.

This announcement is also being made available on the ETA Web site at *http://www.doleta.gov/sga/sga.cfm* and *http://www.grants.gov.*

Part VIII. Other Information

OMB Information Collection No. 1205–0458.

Expires September 30, 2009.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 20 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, the OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503. PLEASE DO NOT RETURN YOUR COMPLETED APPLICATION TO THE OMB. SEND IT TO THE ADDRESS PROVIDED IN PART IV OF THIS SOLICITATION.

This information is being collected for the purpose of awarding a grant. The information collected through this ''Solicitation for Grant Applications'' will be used by the Department of Labor to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant. Unless otherwise specifically noted in this announcement, information submitted in the respondent's application is not considered to be confidential.

Resources for the Applicant

DOL maintains a number of web-based resources that may be of assistance to applicants. The webpage for the DOL Center for Faith-Based and Community Initiatives (*http://www.dol.gov/CFBCI*) is a valuable source of background on the President's Initiative at the Department of Labor. It also contains valuable information on prisoner reentry. America's Service Locator (*http://www.servicelocator.org*) provides a directory of our nation's One-Stop Career Centers. Applicants are encouraged to review ''Understanding the Department of Labor Solicitation for Grant Applications and How to Write an Effective Proposal'' (*http://www/dol.gov/cfbci/sgabrochure.htm*).

Signed at Washington, DC, this 11th day of April, 2007.

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

[FR Doc. E7–7151 Filed 4–13–07; 8:45 am]

BILLING CODE 4510–FT–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2007–1]

Section 109 Report to Congress

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Inquiry.

SUMMARY: Pursuant to statute, the Copyright Office is seeking comment on issues related to the operation of, and continued necessity for, the cable and satellite statutory licenses under the Copyright Act.

DATES: Written comments are due July 2, 2007. Reply comments are due September 13, 2007. April 16, 2007.

ADDRESSES: If hand delivered by a private party, an original and five copies of a comment or reply comment should be brought to the Library of Congress, U.S. Copyright Office, Public and Information Office, 101 Independence Ave, SE, Washington, DC 20559, between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site (''CCAS'') located at 2nd and D Streets, NE, Washington, D.C. between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM 430, James Madison Building, 101 Independence Avenue, SE, Washington, DC. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Senior Attorney, and Tanya M. Sandros, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

Overview. There are three statutory licenses in the Copyright Act (''Act'') governing the retransmission of distant and local broadcast station signals. A statutory license is a codified licensing scheme whereby copyright owners are required to license their works at a regulated price and under government–set terms and conditions. There is one statutory license applicable to cable television systems and two statutory licenses applicable to satellite carriers. The cable statutory license, enacted in 1976 and codified in Section 111 of the Act, permits a cable operator to retransmit both local and distant radio and television signals to its subscribers who pay a fee for such service. The satellite carrier statutory license, enacted in 1988 and codified in Section 119 of the Act, permits a satellite carrier to retransmit distant television signals (but not radio signals) to its subscribers

for private home viewing as well as to commercial establishments.[1]

The royalties collected under the Section 111 and Section 119 licenses are paid to the copyright owners or their representatives, such as the Motion Picture Association of America (''MPAA''), the professional sports leagues (*i.e.*, MLB, NFL, NHL, and the NBA, *et. al.*), performance rights groups (*i.e.*, BMI and ASCAP), commercial broadcasters, noncommercial broadcasters, religious broadcasters, and Canadian broadcasters for the public performance of the programs carried on the retransmitted station signal. Under Chapter 8 of the Copyright Act, the Copyright Royalty Judges are charged with adjudicating royalty claim disputes arising under Sections 111 and 119 of the Act. *See* 17 U.S.C. 801.

The Section 122 statutory license, enacted in 1999, permits satellite carriers to retransmit local television signals (but not radio) into the stations' local market on a royalty–free basis. The license is contingent upon the satellite carrier complying with the rules, regulations, and authorizations established by the Federal Communications Commission (''FCC'') governing the carriage of television broadcast signals. Section 338 of the Communications Act of 1934 (''Communications Act''), a corollary statutory provision to Section 122 and also enacted in 1999, required satellite carriers, by January 1, 2002, ''to carry upon request all local television broadcast stations' signals in local markets in which the satellite carriers carry at least one television broadcast station signal,'' subject to the other carriage provisions contained in the Communications Act. The FCC implemented this provision in 2000 and codified the ''carry–one carry–all'' rules in 47 CFR 76.66. The carriage of such signals is not mandatory, however, because satellite carriers may choose not to retransmit a local television signal to subscribers in a station's local market.

Section 109. On December 8, 2004, the President signed the Satellite Home Viewer Extension and Reauthorization Act of 2004, a part of the Consolidated Appropriations Act of 2004. *See* Pub. L. No. 108–447, 118 Stat. 3394 (2004) (hereinafter ''SHVERA''). Section 109 of the SHVERA requires the Copyright Office to examine and compare the statutory licensing systems for the cable and satellite television industries under Sections 111, 119, and 122 of the Act and recommend any necessary legislative changes no later than June 30, 2008. The Copyright Office has conducted similar analyses of the Section 111 and 119 statutory licenses at the request of Congress in 1992 and 1997. *See The Cable and Satellite Compulsory Licenses: An Overview and Analysis* (March 1992); *A Review of the Copyright Licensing Regimes Covering Retransmission of Broadcast Signals* (August 1997).

Under Section 109, Congress indicated that the report shall include, but not be limited to, the following: (1) a comparison of the royalties paid by licensees under such sections [111, 119, and 122], including historical rates of increases in these royalties, a comparison between the royalties under each such section and the prices paid in the marketplace for comparable programming; (2) an analysis of the differences in the terms and conditions of the licenses under such sections, an analysis of whether these differences are required or justified by historical, technological, or regulatory differences that affect the satellite and cable industries, and an analysis of whether the cable or satellite industry is placed in a competitive disadvantage due to these terms and conditions; (3) an analysis of whether the licenses under such sections are still justified by the bases upon which they were originally created; (4) an analysis of the correlation, if any, between the royalties, or lack thereof, under such sections and the fees charged to cable and satellite subscribers, addressing whether cable and satellite companies have passed to subscribers any savings realized as a result of the royalty structure and amounts under such sections; and (5) an analysis of issues that may arise with respect to the application of the licenses under such sections to the secondary transmissions of the primary transmissions of network stations and superstations that originate as digital signals, including issues that relate to the application of the unserved household limitations under Section 119 and to the determination of royalties of cable systems and satellite carriers.[2]

According to Section 109's legislative history, the Copyright Office shall conduct a study of the Section 119 and Section 122 licenses for satellite, and the Section 111 license for cable, and make recommendations for improvements to Congress no later than June 30, 2008. The legislative history further instructs that the Copyright Office must analyze the differences among the three licenses and consider whether they should be eliminated, changed, or maintained with the goal of harmonizing their operation. *See* H.R. Rep. No. 108–660, 108th Cong., 2d Sess., at 19 (2004).

This Notice of Inquiry (''NOI'') commences our efforts to collect information necessary to address the issues posed to us by Congress in Section 109 of the SHVERA. We plan to hold hearings on matters raised in this NOI later this year to further supplement the record. A separate **Federal Register** notice will be issued announcing the dates and procedures associated with those hearings. Interested parties will be provided an opportunity to testify at the hearings and respond to testimony submitted at those hearings.

II. DISCUSSION

We hereby seek comment on Sections 111, 119, and 122 of the Copyright Act. We analyze the rates, terms, and conditions found in the three licenses at issue. We also examine how multichannel video competition has been affected by the licenses and whether cable and satellite subscribers have benefitted from them. In addition, we explore the application of the licenses to new digital video technologies. We conclude our inquiry by seeking comment on whether the licenses should be maintained, modified, expanded, or eliminated.

A. Comparison of Royalties

1. *Background*

Section 111. The royalty payment scheme for the Section 111 license is complex and is based, in large part, on broadcast signal carriage regulations adopted by the FCC over thirty years ago. Cable operators pay royalties based on mathematical formulas established in Section 111(d)(1)(B), (C), and (D) of the Copyright Act. Section 111 segregates

[1] We note that, unlike Section 111, Section 119 does not use the term ''distant'' to refer to those broadcast station signals retransmitted under the statutory license. For the purposes of this NOI, however, the term ''distant'' may be used in the Section 119 context to describe a television station signal retransmitted by a satellite carrier.

[2] Aside from the requirement to issue a report under Section 109, the SHVERA also required the Copyright Office to examine select portions of the Section 119 license and to determine what, if any, effect Sections 119 and 122 have had on copyright owners whose programming is retransmitted by satellite carriers. Specifically, Section 110 of the SHVERA required the Register of Copyrights to report her findings and recommendations on: (1) the extent to which the unserved household limitation for network stations contained in Section 119 has operated efficiently and effectively; and (2) the extent to which secondary transmissions of primary transmissions of network stations and superstations under Section 119 harm copyright owners of broadcast programming and the effect, if any, of Section 122 in reducing such harm. The Section 110 report was released in 2006. *See Satellite Home Viewer Extension and Reauthorization Act § 110 Report*, A Report of the Register of Copyrights (February 2006).

cable systems into three separate categories according to the amount of revenue, or ''gross receipts,'' a cable system receives from subscribers for the retransmission of distant broadcast station signals. For purposes of calculating the royalty fee cable operators must pay under Section 111, gross receipts include the full amount of monthly (or other periodic) service fees for any and all services (or tiers) which include one or more secondary transmissions of television or radio broadcast stations, for additional set fees, and for converter (''set top box'') fees. Gross receipts are not defined in Section 111, but are defined in the Copyright Office's rules. *See* 37 CFR 201.17(b)(1). These categories are: (1) systems with gross receipts between $0–$263,800 (under Section 111(d)(1)(C)); (2) systems with gross receipts more than $263,800 but less than $527,600 (under Section 111(d)(1)(D)); and (3) systems with gross receipts of$527,600 and above (under Section 111(d)(1)(B)). This revenue–based classification system reveals Congress' belief that larger cable systems have a significant economic impact on copyrighted works.

The Copyright Office has developed Statement of Account (''SOA'') forms that must be submitted by cable operators on a semi–annual basis for the purpose of paying statutory royalties under Section 111. There are two types of cable system SOAs currently in use. The SA1–2 Short Form is used for cable systems whose semi–annual gross receipts are less than $527,600.00. There are three levels of royalty fees for cable operators using the SA1–2 Short Form: (1) a system with gross receipts of $137,000.00 or less pays a flat fee of $52.00 for the retransmission of all local and distant broadcast station signals; (2) a system with gross receipts greater than $137,000.00 and equal to or less than $263,000.00, pays between $52.00 to $1,319.00; and (3) a system grossing more than $263,800.00, but less than $527,600.00 pays between $1,319.00 to $3,957.00. Cable systems falling under the latter two categories pay royalties based upon a fixed percentage of gross receipts notwithstanding the number of distant station signals they retransmit. The SA–3 Long Form is used by larger cable systems grossing $527,600.00 or more semi–annually. The vast majority of royalties paid under Section 111 come from Form SA–3 systems.

A key element in calculating the appropriate royalty fee involves identifying subscribers of the cable system located outside the local service area of a primary transmitter. *See* 17 U.S.C. 111(d)(1)(B); *see also* 17 U.S.C. 111(f) (definition of ''local service area of a primary transmitter''). This determination is predicated upon two sets of FCC regulations: the broadcast signal carriage rules in effect on April 15, 1976, and a station's television market as currently defined by the FCC. In general, a broadcast station is considered distant vis–a–vis a particular cable system where subscribers served by that system are located outside that broadcast station's specified 35 mile zone (a market definition concept arising under the FCC's old rules), its Area of Dominant Influence (''ADI'') (under Arbitron's defunct television market system), or Designated Market Area (''DMA'') (under Nielsen's current television market system). However, there are other sets of rules and criteria (*e.g.*, Grade B contour coverage or ''significantly viewed'' status) that also apply in certain situations when assessing the local or distant status of a station–even when subscribers are located outside its zone, ADI and DMA for copyright purposes. A cable system pays a ''base rate fee'' if it carries any distant signals regardless of whether or not the system is located in an FCC–defined television market area. Form SA–3 cable systems that carry only local signals do not pay the base rate fee, but do pay the minimum fee of $5,344.59 (*i.e.* 1.013% x $527, 600.00).

The royalty scheme for Form SA–3 cable systems employs the statutory device known as the distant signal equivalent (''DSE''). Section 111 defines a DSE as ''the value assigned to the secondary transmission of any non–network television programming carried by a cable system in whole or in part beyond the local service area of a primary transmitter of such programming.'' 17 U.S.C. 111(f). A DSE is computed by assigning a value of one (1.0) to a distant independent broadcast station (as that term is defined in the Copyright Act), and a value of one–quarter (.25) to distant noncommercial educational stations and network stations (as those terms are defined in the Copyright Act).

A Form SA–3 cable system pays royalties based upon a sliding scale of percentages of its gross receipts depending upon the number of DSEs it carries. The greater the number of DSEs, the higher the total percentage of gross receipts and, consequently, the larger the total royalty payment. For example: (1) 1st DSE = 1.013% of gross receipts; (2) 2, 3 & 4th DSE = .668% of gross receipts; and (3) 5th, etc., DSE = .314% of gross receipts. Cable systems carrying distant television station signals after June 24, 1981, that would not have been permitted under the FCC's former rules in effect on that date, must pay a royalty fee of 3.75% of gross receipts using a formula based on the number of relevant DSEs. The cable operator would pay either the sum of the base rate fee and the 3.75% fee, or the minimum fee, whichever is higher. Cable systems located in whole or in part within a major television market (as defined by the FCC), must calculate a syndicated exclusivity surcharge (''SES'') for the retransmission of any commercial VHF station signal that places a Grade B contour, in whole or in part, over the cable system which would have been subject to the FCC's syndicated exclusivity rules in effect on June 24, 1981. If any signals are subject to the SES, an SES fee is added to the foregoing larger amount to determine the system's total royalty fee.[3]

At this juncture, it is important to note that the FCC does not currently restrict the kind and quantity of distant signals a cable operator may retransmit. Nevertheless, the FCC's former market quota rules, which did limit the number of distant station signals carried and were part of the FCC's local and distant broadcast carriage rules in 1976, are still relevant for Section111 purposes. These rules are integral in determining: (1) whether broadcast signals are permitted or non–permitted; (2) the applicable royalty fee category; and (3) a station's local or distant status for copyright purposes. Broadcast station signals retransmitted pursuant to the former market quota rules are considered permitted stations and are not subject to a higher royalty rate. To put these rules in context, a cable system in a smaller television market (as defined by the FCC) was permitted to carry only one independent television station signal under the FCC's former market quota rules. Currently, a cable system in a smaller market is permitted to retransmit one independent station signal. A cable system located in the top 50 television market or second 50 market (as defined by the FCC), was permitted to carry more independent station signals under the former market quota rules; a cable system in these markets is currently permitted under Section 111 to retransmit more independent station signals than a cable system in a smaller market. The former market quota rules did not apply to

[3] In 1980, the FCC eliminated its distant signal carriage and syndicated exclusivity rules. The Copyright Royalty Tribunal (''CRT''), in response to the FCC's actions, conducted a rate adjustment proceeding to establish two new rates applicable only to Form SA-3 systems: (1) to compensate for the loss of the distant signal carriage rules, the CRT adopted the 3.75% fee; and (2) to compensate for the loss of the syndex rules, the CRT adopted the SES fee. *See* 47 FR 52146 (1982). The FCC reinstituted its syndicated exclusivity rules in the late 1980s.

cable systems located ''outside of all markets'' and these systems under Section 111 are currently permitted to retransmit an unlimited number of television station signals without incurring the 3.75% fee (although these systems still pay at least a minimum copyright fee or base rate fee for those signals).

There are other bases of permitted carriage under the current copyright scheme that are tied to the FCC's former carriage requirements. They include: (1) specialty stations; (2) grandfathered stations; (3) commercial UHF stations placing a Grade B contour over a cable system; (4) noncommercial educational stations; (5) part time or substitute carriage; and (6) a station carried pursuant to an individual waiver of FCC rules. If none of these permitted bases of carriage are applicable, then the cable system pays a relatively higher royalty fee for the retransmission of that station's signal.

The Copyright Office has divided the royalties collected from cable operators into three categories to reflect their origin: (1) the ''Basic Fund,'' which includes all royalties collected from Form SA–1 and Form SA–2 systems, and the royalties collected from Form SA–3 systems for the retransmission of distant signals that would have been permitted under the FCC's former distant carriage rules; (2) the ''3.75% Fund,'' which includes royalties collected from Form SA–3 systems for distant signals whose carriage would not have been permitted under the FCC's former distant signal carriage rules; and 3) the ''Syndex Fund,'' which includes royalties collected from Form SA–3 systems for the retransmission of distant signals carrying programming that would have been subject to black–out protection under the FCC's old syndicated exclusivity rules. We note that royalties collected from the syndex surcharge decreased considerably after the FCC reimposed syndicated exclusivity protection in 1988.

In order to be eligible for a distribution of royalties, a copyright owner of broadcast programming retransmitted by one or more cable systems under Section 111 must submit a written claim to the Copyright Royalty Judges. Only copyright owners of non–network broadcast programming are eligible for a royalty distribution. Eligible copyright owners must submit their claims in July for royalties collected from cable systems during the previous year. If there are no controversies, meaning that the claimants have settled among themselves as to the amount of royalties each claimant is due, then the Copyright Royalty Judges distribute the royalties in accordance with the claimants' agreement(s) and the proceeding is concluded.[4]

Section 119. The satellite carrier statutory license, first enacted through the Satellite Home Viewer Act (''SHVA'') of 1988, and codified in Section 119 of the Act, establishes a statutory copyright licensing scheme for satellite carriers that retransmit the signals of distant television network stations and superstations to satellite dish owners for their private home viewing and for viewing in commercial establishments. Satellite carriers may use the Section 119 license to retransmit the signals of superstations to subscribers located anywhere in the United States. However, the Section 119 statutory license limits the secondary transmissions of network station signals to no more than two such stations in a single day to persons who reside in unserved households. An ''unserved household'' is defined as one that cannot receive an over–the–air signal of Grade B intensity of a network station using a conventional rooftop antenna. 17 U.S.C. 119(d). Congress created the unserved household provision to protect the historic network–affiliate relationship as well as the program exclusivity enjoyed by television broadcast stations in their local markets.

The Section 119 license is similar to the cable statutory license in that it provides a means for satellite carriers to clear the rights to television broadcast programming upon semi–annual payment of royalty fees to the Copyright Office. However, the calculation of royalty fees under the Section 119 license is significantly different from the cable statutory license. Rather than determine royalties based upon old FCC rules, royalties under the Section 119 license are calculated on a flat, per subscriber per station basis. Television broadcasts are divided into two categories: superstations (*i.e.*, commercial independent television broadcast stations), and network stations (*i.e.*, commercial televison network stations and noncommercial educational stations); each with its own attendant royalty rates. Satellite carriers multiply the respective royalty rate for each station by the number of subscribers, on a monthly basis, who receive the station's signal during the six–month accounting period to calculate their total royalty payment. Each year, satellite carriers submit royalties to the Copyright Office which are, in turn, distributed to copyright owners whose works were included in a retransmission of a broadcast station signal and for whom a claim for royalties was timely filed with the Copyright Royalty Judges.

Section 122. The Section 122 license allows satellite carriers to retransmit local television signals. Because there are no royalty fees or carriage restrictions for local signals retransmitted under Section 122, there is no need to distinguish between network stations and superstations as is the case in Section 119. The Section 122 statutory copyright license, permits, but does not require, satellite carriers to engage in the satellite retransmission of a local television station signal into the station's own market (DMA) without the need to identify and obtain authorization from copyright owners to retransmit the owners' programs. *See* 17 U.S.C. 122.

2. *Payments and Rate Increases*

Congress has asked us to compare the royalties paid by licensees under Sections 111, 119, and 122, and report on the historical rates of increases in these royalties.

Royalties Paid. Cable operators have paid, on average, $125,000,000.00 in royalties annually since the implementation of Section 111 by the Copyright Office in 1978. While royalty payments under the cable statutory license have increased over the past seven years, there have been periods of fluctuation in the past 29 years. For example, royalties decreased 30% in 1998 from the year before partly because WTBS changed its status from a distant superstation to a basic cable network. Royalties also decreased by 13% in 1994 from the year before likely because cable operators dropped distant signals in order to accommodate the carriage of local signals mandated by Sections 614 and 615 of the 1992 Cable Act. *See* Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102–385, 106 Stat. 1460.

We estimate that smaller cable operators (SA–1/SA–2 systems) pay, on average, .4% of their gross receipts into the royalty pool. In comparison, larger cable operators (SA–3 systems) pay, on average, 1.2% of their gross receipts into the royalty pool. These figures, based on the 2001/1 and 2001/2 accounting periods (as typical periods), are derived by dividing a system's royalty fees by its

[4] The Copyright Royalty and Distribution Reform Act of 2004 (Pub. L. No. 108–419) eliminated the Copyright Arbitration Royalty Panel (''CARP'') system that had been part of the Copyright Office since 1993. The Act replaced CARP (which itself replaced the Copyright Royalty Tribunal in 1993) with a system of three Copyright Royalty Judges (''CRJs''), who now determine rates and terms for the copyright statutory licenses and make determinations on distribution of statutory license royalties collected by the Copyright Office.

gross receipts. [5] These percentages are generally consistent over other accounting periods as well.

In comparison, satellite carriers have paid, on average, nearly $50,000,000.00 in royalties annually, since the Copyright Office began implementing the Section 119 license in 1989. Like the Section 111 royalties described above, there have been fluctuations due to changed circumstances. For example, satellite royalties decreased by over 26% in 1999 from the year before likely because satellite carriers began offering local–into–local service under Section 122 of the Copyright Act and Section 338 of the Communications Act and because of a royalty rate decrease announced in December 1999. *See* http://www.copyright.gov/fedreg/1999/64fr71659.pdf. We cannot determine how much satellite carriers paid in royalties as a percentage of revenue because Section 119 royalties are based on a flat fee per subscriber and not on a gross receipt basis as is the case under Section 111. However, Copyright Office records do indicate that DirecTV has paid more than $326 million in royalty fees between the second half of 1997 through the end of 2006, while Echostar has paid more than $158 million during the same period. Other (existing and defunct) satellite carriers, such as Primetime 24, Primestar Partners, and Satellite Communications, have also paid royalties under Section 119 over the last ten years. The payment of royalties by these and other companies are included in the average total discussed above.

As for Section 122, we reiterate that satellite carriers may carry local broadcast station signals on a royalty–free basis as long as they abide by the carry–one carry–all requirements of Section 338 of the Communications Act. Therefore, there are no royalty data to examine for our purposes here.

Stations Carried. According to data obtained from the SA–3 forms filed with the Copyright Office, there has been a slow, but steady, increase in the number of unique distant broadcast station signals retransmitted by cable operators across the United States over the last 15 years. For example, during the 1992/1 accounting period, cable operators retransmitted 822 unique distant signals. During the 2000/1 accounting period, that number increased to 918. And, during the 2005–1 accounting period, the number of unique distant signals retransmitted by cable operators reached 1,029. This increase is partly attributable to the retransmission of new distant analog television signals as well as new digital television signals (*see infra*) which are counted separately from their analog counterparts. This increase could also be due to the increased retransmission of distant low power television signals over the past decade.

However, there has been a decrease in the average number of distant station signals retransmitted by cable operators over the same time period. Copyright Office data gleaned from the SA–3 forms suggests that during the 1992–1 accounting period, a cable system retransmitted an average of 2.74 distant signals (2,256 SA3s divided by 822 distant signals). During the 2000/1 accounting period, the average number of distant signals retransmitted by cable operators dropped to 2.52. And, during the recent 2005/1 accounting period, records show that a cable system retransmitted an average of 1.5 distant signals. There were, of course, some SA–3 systems that reported retransmitting more than four distant signals, and some that reported no distant signals being retransmitted at all, but these types of systems are atypical.

The average decrease reflected in these accounting periods can be attributed to various factors, such as: (1) WTBS no longer being carried as a distant television signal since its conversion to a basic cable network in the late 1990s; (2) cable operators being required to carry local television signals, per Sections 614 and 615 of the Communications Act, and having had to drop distant signals to accommodate the carriage of such stations; (3) fewer SA–3 forms being filed with the Copyright Office because of cable system mergers and acquisitions; and (4) statutory changes to the definition of ''local service area'' in the early 1990s.

As for the retransmission of distant television signals under Section 119, we note that the type and number of signals retransmitted varies from carrier to carrier. For example, Echostar's SOA for the 2006/2 accounting period shows that it retransmitted six superstation signals (KTLA, KWGN, WGN, WPIX, WSBK, and WWOR) and paid royalties in excess of $13 million for service to residential subscribers for private home viewing over the six month period. Echostar paid an additional $21,000.00 in royalties for service to commercial establishments for the retransmission of these same superstation signals in the 2006/2 period. Echostar also reported that it retransmitted network station signals to subscribers in 168 DMAs in the first five months of the 2006/2 accounting period, and paid nearly $3 million in royalties, before it had to terminate such service per a Federal court injunction issued in December, 2006. *See infra*. Satellite carriers do not have to report on the number of local television signals carried under Section 122, but Echostar states on its website that it provides local–into–local service in all but the smallest 36 DMAs in the nation.[6]

Questions. We seek comment on the accuracy of the above–stated figures and ask for further explanation for the historic trends described above. Are there different reasons, other than the ones stated, explaining why royalties have fluctuated in the periods examined? We ask commenters to provide a granular analysis of the trends in royalty payments so that we may provide Congress with the information it seeks. On this point, we note that the Copyright Office periodically releases data showing the royalty amounts paid by cable operators and satellite carriers under their respective licenses. *See* http://www.copyright.gov/licensing/lic–receipts.pdf. These data should be used by commenters when responding to this request.

We also seek comment on current distant signal trends under Section 111. For example, are distant television signals mainly retransmitted by cable operators serving smaller markets who are underserved by local television programming? Alternatively, are they retransmitted to subscribers who live on the fringes of television markets and are in need of valued broadcast programming unavailable from their local market stations? For example, do cable operators serving the Springfield–Holyoke DMA retransmit signals from the adjacent Boston (Manchester) DMA so that their subscribers have access to state government news from Boston as well as popular sports programming carried by Boston television stations?

We also seek comment on the number of distant and local signals retransmitted by satellite carriers. For example, are the six superstations listed

[5] We note that in the 2001/1 accounting period, for example, there were: (1) 5,517 SA–1 form filers paying $202,193.37 in cable royalties; (2) 2,117 SA-2 form filers paying $2,186,554.15 in cable royalties; and (3) 1,844 SA–3 form filers paying $57,773, 352.29 in royalties. This figure was calculated by adding the base fee ($51,497,381.75) + 3.75% fee ($6,020,168.47) + SES fee ($$48,369.30) + interest ($207,432.77).

[6] Echostar reports that it serves 174 DMAs (out of 210) with the signals of local television stations. *See* https://customersupport.dishnetwork.com/customernetqual/prepAddress.do. DirecTV reports that it serves 142 DMAs (out of 210) with the signals of local television stations (and notes that this number accounts for more than 94% of the nation's television households). *See* http://www.directv.com/DTVAPP/packProg/localChannel.jsp?assetId=900018. However, the number of signals carried in each market is not specifically listed on either website.

above typically retransmitted under Section 119? If so, why? How does a satellite carrier decide which superstation and network station signals it will retransmit? Does it decide based on the amount of royalties it has to pay or does the satellite carrier retransmit signals based on subscriber demand? Are there certain ''must–have'' distant television signals, including superstation signals, that satellite carriers retransmit to remain competitive with cable operators? What factors will likely affect the retransmission of distant television signals, and the concomitant royalties paid, by satellite carriers in the future? On average, does a subscriber to a cable service receive the same broadcast signal channel line–up as a subscriber to a satellite service? If not, what are the differences and why do they exist?

3. *Marketplace Rates Compared*

Congress has also asked us to compare the royalties under Sections 111, 119, and 122 and the prices paid in the marketplace for comparable programming. The difficult issue here is parsing the term ''comparable programming'' so that the analysis is clear. The inquiry assuredly includes an examination of the local broadcast station market, but the term could be read more expansively to include an analysis of the prices (license fees) paid by cable operators and satellite carriers to carry non–broadcast programmers, such as basic cable networks. Given the ambiguous wording in the statute, we shall consider both local broadcast stations and basic cable networks in the analysis. With regard to broadcast stations, we will analyze the rates, terms, and conditions of carriage privately negotiated by cable operators, satellite carriers, and broadcast stations under the retransmission consent provisions found in Section 325 of the Communications Act of 1934, as amended by the 1992 Cable Act.

A brief history of broadcast–cable carriage negotiations is necessary here. Prior to 1992, cable operators were not required to seek the permission of a local broadcast station before carrying its signal nor were they required to compensate the broadcaster for the value of its signal. Congress found that a broadcaster's lack of control over its signal created a ''distortion in the video marketplace which threatens the future of over–the–air broadcasting.'' *See* S. Rep. No. 102–92, 102d Cong., 1st Sess. (1991) at 35. In 1992, Congress acted to remedy the situation by giving a commercial broadcast station control over the use of its signal through statutorily–granted retransmission consent rights. Retransmission consent effectively permits a commercial broadcast station to seek compensation from a cable operator for carriage of its signal. Congress noted that some broadcasters might find that carriage itself was sufficient compensation for the use of their signal by an MVPD while other broadcasters might seek monetary compensation, and still others might negotiate for in–kind consideration such as joint marketing efforts, the opportunity to provide news inserts on cable channels, or the right to program an additional channel on a cable system. Congress emphasized that it intended ''to establish a marketplace for the disposition of the rights to retransmit broadcast signals'' but did not intend ''to dictate the outcome of the ensuing marketplace negotiations.'' *Id.* at 36.

With regard to copyright issues, the legislative history indicates that Congress was concerned with the effect retransmission consent may have on the Section 111 license stating that ''the Committee recognizes that the environment in which the compulsory copyright [sic] operates may change because of the authority granted broadcasters by section 325(b)(1).'' *Id.* The legislative history later stated that cable operators would continue to have the authority to retransmit programs carried by broadcast stations under Section 111. *Id.*

During the first round of retransmission consent negotiations in the early 1990s, broadcasters initially sought cash compensation in return for retransmission consent. However, most cable operators, particularly the largest multiple system operators, were not willing to enter into agreements for cash, and instead sought to compensate broadcasters through the purchase of advertising time, cross–promotions, and carriage of affiliated non–broadcast networks. Many broadcasters were able to reach agreements that involved in–kind compensation by affiliating with an existing non–broadcast network or by securing carriage of their own newly–formed, non–broadcast networks. *See* FCC, *Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004* (Sept. 8, 2005)(noting that the new broadcast–affiliated MVPD networks included Fox's FX, ABC's ESPN2, and NBC's America's Talking, which later became MSNBC). Broadcast stations that insisted on cash compensation were forced to either lose cable carriage or grant extensions allowing cable operators to carry their signals at no charge until negotiations were complete. Fourteen years later, cash still has not emerged as the sole form of consideration for retransmission consent, but the request and receipt involving such compensation is increasing. *See* Peter Grant and Brooks Barnes, *Television's Power Shift: Cable Pays For Free Shows*, Wall Street Journal, Feb. 5, 2007, at A1, A14 (noting that broadcast television station owners may be able to collect almost $400 million in retransmission fees from cable by 2010, increasing each subscriber's bill by $2.00 per month).

Under Section 325 of the Communications Act, as amended, retransmission consent for the carriage of commercial broadcast signals applies not only to cable operators, but also to other multichannel video programming distributors (''MVPDs''), such as satellite carriers and multichannel multipoint distribution services (''MMDS'' or ''Wireless Cable'').

Cable operators generally do not need to obtain retransmission consent for the carriage of established superstations under the Communications Act. Satellite carriers generally do not need to obtain retransmission consent to retransmit established superstations or network stations (if the subscriber is located in an area outside the local market of such stations and resides in an unserved household.) *See* 47 U.S.C. 325(b)(1).

We also must point out that retransmission consent is a right given to commercial broadcast stations. Copyright owners of the programs carried on such stations do not necessarily benefit financially from agreements between broadcasters and cable operators or satellite carriers.

We seek comment on how the prices, terms, and conditions of retransmission consent agreements between local broadcast stations and MVPDs relates to the statutory licenses at issue here. Specifically, we seek comment on how retransmission consent agreements reflect marketplace value for broadcast programming and how this value compares with the royalties collected under the statutory licenses. As noted above, it may be difficult to analyze these two variables because the benefits of retransmission consent inures to broadcast stations while the statutory royalty fees are paid to copyright owners (which include, but are not limited to, broadcast stations). In any event, we believe that the compensation paid for retransmission consent for local stations may serve as a proxy for prices paid for the carriage of distant broadcast stations and the programs retransmitted

therein. We seek comment on whether this approach is correct.

We also seek comment on what the marketplace rate for distant signals would be if a basic cable network was used as a surrogate. There are hundreds of basic cable networks that may be used as a point of comparison. Which ones should we select for our analysis? We could use the TBS license fee structure (*i.e.*, as dictated in the affiliation agreement between the network and the MVPD) as a model since it was formerly a superstation carried under the Section 111 and Section 119 licenses, but is now paid a per subscriber licensing fee as a basic cable network. Is this an appropriate comparison? We understand that it may be easier for cable operators and satellite carriers to license basic cable networks, like TBS and CNN, than it would be for distant broadcast signals. To wit, a non–broadcast program network obtains licenses from each copyright owner for all of the works in its line–up to enable a cable operator or satellite carrier to retransmit the network, but there is no equivalent conveyance of rights where cable or satellite retransmission of a broadcast station signal is concerned. Is this difference relevant to the analysis? What are the similarities between basic cable networks and distant broadcast stations that we should be aware of? Are there other ways to determine the value of copyrighted content carried by distant signals?

B. Differences in the Licenses

1. *Terms and Conditions.*

Congress has asked us to analyze the differences in the terms and conditions of the statutory licenses. First, there is a difference in how royalties are based. Satellite carriers pay a flat royalty fee on a per subscriber basis while cable operators pay royalties based on a complex system tied to cable system size and old FCC carriage rules. *Compare* 17 U.S.C. 119(b) with 17 U.S.C. 111(d). Second, satellite carriers are permitted to market and sell distant network station signals only to unserved households (*i.e.*, those customers who are unable to receive the signals of local broadcast stations) while cable operators are not so restricted. *Compare* 17 U.S.C. 119(a)(2)(B) with 17 U.S.C. 111(c). Third, satellite carriers cannot provide the signals of more than two network stations in a single day to its subscribers in unserved households while cable operators may carry as many distant network station signals as they wish so long as they pay the appropriate royalty fee for each signal carried. *Compare* 17 U.S.C. 119(a)(2)(B)(i) with 17 U.S.C. 111(c) and (d). Fourth, cable operators are permitted to retransmit radio station signals under Section 111 while satellite carriers do not have such a right. *See* 17 U.S.C. 111(f). Fifth, Congress specifically accounted for the retransmission of digital television station signals by satellite carriers in the last revision of Section 119 in 2004, but has not yet addressed the retransmission of digital television signals by cable operators under Section 111. Finally, the Section 119 statutory license expires after a five year period, unless renewed by Congress, while the Section 111 statutory license, as well as the Section 122 license, are permanent. We seek comment on other differences between the statutory licenses, that are not noted above, that are relevant to this proceeding.

2. *Justifications for Differences.*

Congress also asked for an analysis of whether these differences are required or justified by historical, technological, or regulatory differences that affect the satellite and cable industries. We provide a broad overview to put this inquiry into perspective.

a. Historical Differences.

Section 111. The years leading up to the enactment of the Copyright Act of 1976 were marked by controversy over the issue of cable television. Through a series of court decisions, cable systems were allowed under the Copyright Act of 1909 to retransmit the signals of broadcast television stations without incurring any copyright liability for the copyrighted programs carried on those signals. *See Fortnightly Corp. v. United Artists Television*, 392 U.S. 390 (1968) (pertaining to the retransmission of local television station signals), *Teleprompter Corp. v. Columbia Broadcasting System, Inc.*, 415 U.S. 394 (1974) (pertaining to the retransmission of distant television station signals). The question, at that time, was whether copyright liability should attach to cable transmissions under the proposed Copyright Act, and if so, how to provide a cost–effective means of enabling cable operators to clear rights in all broadcasting programming that they retransmitted.

In the mid–1970s, cable operators typically carried multiple broadcast signals containing programming owned by dozens of copyright owners. At the time, it was not realistic for hundreds of cable operators to negotiate individual licenses with dozens of copyright owners, so a practical mechanism for clearing rights was needed. As a result, Congress created the Section 111 statutory license for cable systems to retransmit broadcast signals. Congress enacted Section 111 after years of industry input and in light of (1) FCC regulations that inextricably linked the cable and broadcast industries and (2) the need to preserve the nationwide system of local broadcasting. *See* H.R. Rep. No. 1476 at 88-91; *see also, Cable Compulsory Licenses: Definition of Cable Systems*, 62 FR 18705, 18707 (Apr. 17, 1997) (''The Office notes that at the time Congress created the cable compulsory license, the FCC regulated the cable industry as a highly localized medium of limited availability, suggesting that Congress, cognizant of the FCC's regulations and market realities, fashioned a compulsory license with a local rather than a national scope. This being so, the Office retains the position that a provider of broadcast signals be an inherently localized transmission media of limited availability to qualify as a cable system.''). It is important to note that at the time Section 111 was enacted, there were few local media outlets and virtually no competition to the Big 3 television networks (ABC, CBS, and NBC).

The structure of the cable statutory license was premised on two prominent congressional considerations: (1) the perceived need to differentiate between the impact on copyright owners of local versus distant signals carried by cable operators; and (2) the need to categorize cable systems by size based upon the dollar amount of receipts a system receives from subscribers for the carriage of distant signals. These two considerations played a significant role in determining what economic effect cable systems had on the value of copyrighted works carried on broadcast stations. Congress concluded that a cable operator's retransmission of local signals did not affect the value of the copyrighted works broadcast because the signal is already available to the public for free through over–the–air broadcasting. Therefore, the cable statutory license permits cable systems to retransmit local television signals without a significant royalty obligation. Congress did determine, however, that the retransmission of distant signals affected the value of copyrighted broadcast programming because the programming was reaching larger audiences. The increased viewership was not compensated because local advertisers, who provide the principal remuneration to broadcasters, were not willing to pay increased advertising rates for cable viewers in distant markets who could not be reasonably expected to purchase their goods. As a result, Congress believed that

broadcasters had no reason or incentive to pay greater sums to compensate copyright owners for the receipt of their signals by viewers outside their local service area.

The Section 111 statutory license has not been the only means for licensing programming carried on distant broadcast signals. Copyright owners and cable operators have been free to enter into private licensing agreements for the retransmission of broadcast programming. Private licensing most frequently occurs in the context of particular sporting events, when a cable operator wants to retransmit a sporting event carried on a distant broadcast signal, but does not want to carry the signal on a full–time basis. The practice of private licensing has not been widespread and most cable operators have relied exclusively on the cable statutory license to clear the rights to broadcast programming. Section 111 has been lightly amended since enacted in 1976.

Section 119. From the time of passage of the Copyright Act of 1976 through the mid–1980s, the developing satellite television industry operated without incurring copyright liability under the passive carrier exemption of Section 111(a)(3) of the Act. That subsection provides an exemption for secondary transmissions of copyrighted works where the carrier has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and the carrier's activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others.

In the mid–1980s, however, many resale carriers and copyright holders began scrambling their satellite signals to safeguard against the unauthorized reception of copyrighted works. Only authorized subscribers were able to descramble the encrypted signals. Scrambling presented several concerns, including whether it would impede the free flow of copyrighted works and whether it took satellite carriers out of the passive carrier exemption since it represented direct control over the receipt of signals. At the same time, several lawsuits were pending against certain satellite carriers who claimed to operate under Section 111. In 1992, the Copyright Office decided that satellite carriers were not cable systems within the meaning of Section 111, notwithstanding an 11th Circuit Court of Appeals decision holding otherwise. *See* 57 FR 3284 (1992), citing *National Broadcasting Company, Inc. v. Satellite Broadcast Networks*, 940 F.2d 1467 (11th Cir. 1991).

The satellite statutory license under Section 119 was enacted in 1988 to respond to these concerns and to ensure the availability of programming comparable to that offered by cable systems (i.e., an affiliate of each of the broadcast television networks, superstations, and non–broadcast programming services) to satellite subscribers until a market developed for that distribution medium. *See* Satellite Home Viewer Act (''SHVA''), Pub. L. No. 100–667 (1988); H.R. Rep. No. 887, Part I, 100th Cong., 2d Sess. 8–14 (1988). Section 119 was created at a time when there was no competition to cable operators in the provision of multichannel video programming and there were no rules in effect mandating the cable carriage of local broadcast signals.[7]

The Section 119 statutory license created by the SHVA was scheduled to expire at the end of 1994 at which time satellite carriers were expected to be able to license the rights to all broadcast programming that they retransmitted to their subscribers. However, in 1994, Congress decided to reauthorize Section 119 for an additional five years and made two significant changes to the terms of the license. *See* Pub. L. No. 103–369, 108 Stat. 3477 (1994). First, in reaction to complaints against satellite carriers concerning wholesale violations of the unserved household provision, the 1994 Act instituted a transitional signal strength testing regime in an effort to identify and terminate the network service of subscribers who did not reside in unserved households. Second, in order to assist the process of ultimately eliminating the Section 119 license, Congress provided for a Copyright Arbitration Royalty Panel proceeding to adjust the royalty rates paid by satellite carriers for the retransmission of network station and superstation signals. Unlike cable systems which pay royalty rates adjusted only for inflation, Congress mandated that satellite carrier rates should be adjusted to reflect marketplace value. It was thought that by compelling satellite carriers to pay statutory royalty rates that equaled the rates they would most likely pay in the open marketplace, there would be no need to further renew the Section 119 license and it could expire in 1999.

The period from 1994 to 1999, however, was the most eventful in the history of the Section 119 license. The satellite industry grew considerably during this time and certain satellite carriers provided thousands of subscribers with network station signals in violation of the unserved household limitation. Broadcasters sued certain satellite carriers and many satellite subscribers lost access to the signals of distant network stations. These aggrieved subscribers, in turn, complained to Congress about the unfairness of the unserved household limitation. In the meantime, the Library of Congress conducted a CARP proceeding to adjust the royalty rates paid by satellite carriers. Applying the new marketplace value standard as it was required to do, the CARP raised the rates considerably.

To address these events, Congress enacted the Satellite Home Viewer Improvement Act of 1999 (''SHVIA''). Pub. L. No. 106–113, 113 Stat. 1501 (1999). The SHVIA, *inter alia*, permitted satellite carriers to retransmit non–network signals to all served and unserved households in all markets. In reaction to industry complaints about the 1997 CARP proceeding that raised the Section 119 royalty rates, Congress abandoned the concept of marketplace–value royalty rates and reduced the CARP–established royalty fee for the retransmission of network station signals by 45 percent and the royalty fee for superstation signals by 30 percent. More importantly, the SHVIA instituted a new statutory licensing regime for the retransmission of local broadcast station signals by satellite carriers. By 1999, satellite carriers were beginning to implement local service in some of the major television markets in the United States. In order to further encourage this development, Congress created a new, royalty–free license under Section 122 of the Copyright Act permitting the retransmission of local television signals. The SHVIA extended the revised Section 119 statutory license for five years until the end of 2004.

Congress also made several changes to the unserved household limitation itself. The FCC was directed to conduct a rulemaking to set specific standards whereby a satellite subscriber's eligibility to receive service of a network station could accurately be predicted (based on new signal strength measurements). For those subscribers that were not eligible for distant network service, a process was codified whereby they could seek a waiver of the unserved household limitation from

[7] The United States Court of Appeals for the District of Columbia Circuit struck down, as unconstitutional under the First Amendment, two different sets of must carry rules promulgated by the FCC. *See Quincy Cable TV, Inc. v. FCC*, 768 F.2d 1434 (D.C. Cir. 1985); *Century Communications Corp. v. FCC*, 835 F.2d 292 (D.C. Cir. 1987). Congress did not enact Sections 614 and 615 of the Communications Act until 1992.

their local network station. In addition, three categories of subscribers were exempted from the unserved household limitation: (1) owners of recreational vehicles and commercial trucks, provided that they supplied certain required documentation; (2) subscribers receiving network service which was terminated after July 11, 1998, but before October 31, 1999, and did not receive a strong (Grade A) over–the–air signal from their local network broadcaster; and (3) subscribers using large C–band satellite dishes.

The most recent authorization of Section 119 occurred in 2004 with the enactment of the SHVERA. Until the end of 2009, satellite carriers are authorized to retransmit distant network station signals to unserved households and superstation signals to all households, without retransmission consent, but with the requirement to pay royalties. In the SHVERA, Congress adopted a complex set of rules to further limit the importation of distant network station signals into local television markets. For example, the law requires satellite carriers to phase out the retransmission of distant signals in markets where they offer local–into–local service. Generally, a satellite carrier will be required to terminate distant station service to any subscriber that elected to receive local–into–local service and would be precluded from providing distant network station signals to new subscribers in markets where local–into–local service is available. It also provided for the delivery of superstation signals to commercial establishments and for the delivery of television station signals from adjacent markets that have been determined by the FCC to be ''significantly viewed'' in the local market (so long as the satellite carrier provides local–into–local service to those subscribers under the Section 122 statutory license).[8]

Moreover, for the first time, the law distinguished between the retransmission of signals in an analog format and those transmitted in a digital format. SHVERA expanded the copyright license to make express provision for digital signals. In general, if a satellite carrier offers local–into–local digital signals in a market, it is not allowed to provide distant digital signals to subscribers in that market, unless it was offering such digital signals prior to commencing local–into–local digital service. If a household is predicted to be unserved by the analog signals of a network station, it can qualify for the digital signal of the distant network station with which the station is affiliated if it is offered by the subscriber's satellite carrier. If the satellite carrier offers local–into–local analog service, a subscriber must receive that service in order to qualify for distant digital signals. A household that qualifies for distant digital signal service can receive only signals from stations located in the same time zone or in a later time zone, not in an earlier time zone.

SHVERA also provides for signal testing at a household to determine if it is ''served'' by a digital signal over–the–air. In some cases, if a household is shown to be unserved, it would be eligible for distant digital signals, provided the household subscribes to local–into–local analog service, if it is offered. However, this digital testing option was not available until April 30, 2006, in the top 100 television markets, and will be available by July 15, 2007, in all other television markets. Such digital tests also are subject to waivers that the FCC may issue for stations that meet specified statutory criteria. Unlike SHVIA, SHVERA did not determine the royalty rates during the five–year extension because representatives of satellite carriers and copyright owners of broadcast programming negotiated new rates for the retransmission of analog and digital broadcast station signals. *See infra.* A procedure was created to implement these negotiated rates and they were adopted by the Librarian of Congress in 2005.

Section 122. The Section 122 license was enacted eleven years after the Section 119 license and was intended to make the satellite industry more competitive by permitting the retransmission of local television signals on a royalty–free basis. The license is permanent and its history is relatively non–controversial. In fact, satellite carriers have increasingly relied upon the license in the last seven years to provide local television signals to their subscribers in over 150 local markets. *See* n. 8, *supra.*

Issues. As illustrated above, the statutory licenses were enacted by Congress, at various times, to respond to historical events and in response to technological developments. The key difference between the licenses is the relative rigidity of the applicable statutory language. Section 111 has effectively locked the cable industry into a royalty scheme tied to antiquated FCC rules (i.e. the local and distant signal carriage regulations in effect in 1976, but later repealed). On the other hand, Congress has been able to modify Section 119 to reflect current marketplace and legal developments because the license must be renewed every five years. We seek comment on the accuracy of our historical overview and ask if there are any other historical differences among the licenses that merit discussion.

b. Technological Differences

Cable systems and satellite carriers are technologically and functionally very different. Cable systems deliver video and audio (in analog, digital, and high definition formats), voice, and broadband services through fiber and coaxial cable to households, apartment buildings, hotels, mobile home parks, and local businesses. The cable industry has invested billions of dollars to upgrade transmission facilities over the last ten years so that cable systems are able to provide the services described above. Currently, cable operators offer separate tiers of traditional analog channels and newer digital channels to their subscribers, as well as premium services and video–on–demand. Despite system upgrades, some cable systems still lack channel capacity to offer all of the new programming services available. Although there are many large cable operators, each system is franchised to a discrete geographical area. Local or state franchise authorities have authority to condition a franchise grant on the operator's offering, *see* 47 U.S.C. 541, and most cable headends serve specific geographic regions. A cable system's terrestrial–based technology has allowed cable operators to specifically tailor delivery of distant broadcast signals to the needs of their subscriber base.

Satellite carriers use satellites to transmit video programming to subscribers, who must buy or rent a small parabolic ''dish'' antenna and pay a subscription fee to receive the programming service. Satellite carriers digitally compress each signal they carry and do not sell separate analog and digital tiers as most cable operators now do. They have nationwide footprints and a finite amount of transponder space which currently limits the number of program services carried. To make the most use of available channel capacity, satellite carriers have begun to use spot beam technology to deliver local television signals into local markets, but they do not have the level of technical sophistication to provide distant station

[8] Pursuant to SHVERA, satellite carriers were granted the right to retransmit out–of–market significantly viewed station signals to subscribers in the community in which the station is deemed significantly viewed, provided the local station affiliated with the same network as the significantly viewed station is offered to subscribers. Satellite carriers are not required to carry out–of–market significantly viewed signals, and, if they do carry them, retransmission consent is required.

signals on the same basis as cable operators. In any event, satellite carriers have recently launched, or plan to launch, new satellites in order to increase channel capacity and to offer much more high definition television programming to subscribers across the country. Because satellite television is a space–based technology, carriers are technically unable to provide the bundle of video, voice, and data in the same manner as cable systems. We seek comment on these and other technological differences relevant to this discussion.

c. Regulatory Differences

Copyright Act. There are a host of regulatory differences between the cable and satellite statutory licenses. As stated elsewhere in this NOI, Section 111 is grounded in old FCC rules while the regulatory structure of Section 119 has evolved every time it has been renewed. Cable operators are required to pay royalties based on gross receipts while satellite carriers pay a flat fee on a per subscriber basis. Also important to consider is that Section 119 does not make any distinction based on the size of the satellite carrier. Section 111, on the other hand, purposefully differentiates between large and small cable systems based upon the dollar amount of receipts a cable operator receives from subscribers for the carriage of broadcast signals. In 1976, Congress determined that the retransmission of copyrighted works by smaller cable systems whose gross receipts from subscribers were below a certain dollar amount deserved special consideration because they provide broadcast retransmissions to more rural areas. Therefore, in effect, the cable statutory license subsidizes smaller systems and allows them to follow a different, lower–cost royalty computation. Large systems, on the other hand, pay in accordance with a highly technical formula, principally dependent on how the FCC regulated the cable industry in 1976. Aside from these differences, and those noted elsewhere in this NOI, we seek input on other notable variations which are integral in this analysis.

Communications Act and FCC Rules. At this juncture, it is important to note the differences between Section 122 of the Copyright Act and Section 338 of the Communications Act (the local–into–local regulatory paradigm) and the local broadcast signal carriage requirement for cable operators under the Communications Act. A satellite carrier has a general obligation to carry all television station signals in a market, if it carries one station signal in that market through reliance on the statutory license, without reference to a channel capacity cap. In contrast, a cable system with more than 12 usable activated channels is required to devote no more than one–third of the aggregate number of usable activated channels to local commercial television stations that may elect mandatory carriage rights. *See* 47 U.S.C. 534(b)(1)(B). A cable system is also obligated to carry a certain number of qualified local noncommercial educational television stations above the one–third cap. *See* 47 U.S.C. 535(a). Further, only cable operators, and not satellite carriers, have a legal obligation to have a basic service tier that all subscribers must purchase. *See* 47 U.S.C. 543(b)(7).[9] But, Section 338(d) does requires satellite carriers to position local broadcast station signals on contiguous channels and are permitted to sell local television station signals on an a la carte basis.

The FCC has adopted a host of rules governing the exclusivity of programming carried by television broadcast stations. For example, the FCC's network non–duplication rules protect a local commercial or non–commercial broadcast television station's right to be the exclusive distributor of network programming within a specified zone, and require programming subject to the rules to be blacked out when carried on another station's signal imported by an MVPD into the local station's zone of protection. The FCC's syndicated exclusivity rules are similar in operation to the network non–duplication rules, but they apply to exclusive contracts for syndicated programming, rather than for network programming. The FCC's sports blackout rule protects a sports team's or sports league's distribution rights to a live sporting event taking place in a local market. As with the network non–duplication and syndicated exclusivity rules, the sports blackout rule applies only to the extent the rights holder has contractual rights to limit viewing of sports events. The SHVIA required the FCC to extend its cable exclusivity rules, including syndicated exclusivity, to satellite carriers but only with respect to the retransmission of nationally distributed superstations; however, the sports blackout rules apply to both superstations and network stations. *See* SHVIA § 1008, creating 17 U.S.C. 339(b).

We note that in the Copyright Office's Section 110 Report, there was considerable discussion concerning the fact that the syndicated exclusivity rules, sports blackout rules, and network non–duplication rules, do not apply to the retransmission of network station signals to unserved households by satellite carriers under Section 119. The Copyright Office found that a copyright owner's right to license its programming in a local market is threatened in the absence of these requirements. For this reason, the Copyright Office proposed that these rules extend beyond just superstations to also include the retransmission of network station signals to unserved households. *See Satellite Home Viewer Extension and Reauthorization Act § 110 Report, A Report of the Register of Copyrights* (February 2006) at vii.

We seek comment on these and other regulatory differences between cable operators and satellite carriers regarding the retransmission of broadcast station signals. How do these communications law–related requirements affect the royalties collected under the Sections 111 and 119 statutory licenses?

Copyright Office. The Copyright Office has implemented the royalty fee structures of Sections 111 and 119 by adopting substantive and procedural rules in the Code of Federal Regulations. Section 201.11 of title 37 contains the licensing requirements for satellite carriers while Section 201.17 of title 37 contains the licensing requirements for cable operators. The Copyright Office has also adopted separate statement of account forms for satellite carriers and cable operators that comport with its rules. While Congress did not specifically request an analysis of the Copyright Office's rules and statement of account forms under Section 109, we seek comment on the structure and substance of the requirements and their effect on the competition between satellite carriers and cable operators.

3. *Competitive Disadvantages*

Congress asked for an analysis of whether the cable or satellite industry is placed in a competitive disadvantage

[9] In the context of analog broadcast signal carriage, it has been the FCC's view that the Communications Act contemplates there be one basic service tier. In the context of digital carriage, the FCC found that it is consistent with Section 623 of the Communications Act to require that a broadcaster's digital signal must be available on a basic tier such that all broadcast signals are available to all cable subscribers at the lowest priced tier of service, as Congress envisioned. According to the FCC, the basic service tier, including any broadcast signals carried, will continue to be under the jurisdiction of the local franchising authority, and as such, will be rate regulated if the local franchising authority has been certified under Section 623 of the Act. The FCC noted, however, that if a cable system faces effective competition under one of the four statutory tests found in Section 623, and is deregulated pursuant to an FCC order, the cable operator is free to place a broadcaster's digital signal on upper tiers of service or on a separate digital service tier. See Carriage of Digital Television Broadcast Signals, 16 FCC Rcd 2598, 2643 (2001).

due to the above–stated terms, conditions or circumstances. We first ask whether there are certain provisions found in Section 119, and not in Section 111, that affect competition between satellite carriers and cable operators. For example, cable operators, but not satellite carriers, may retransmit distant station signals without regard to whether its subscribers are able to receive local broadcast stations over–the–air. Does Section 119's unserved household limitation competitively disadvantage satellite carriers against cable operators? If so, should Congress correct this imbalance?

We also note that Section 119's unserved household limitation has given rise to significant litigation between Echostar and the broadcast television networks. The case began nearly nine years ago and arose out of claims that Echostar was delivering network station signals to subscribers who were not eligible to receive such stations under Section 119. In May 2006, the United States Court of Appeals for the Eleventh Circuit upheld the district court's determination that Echostar had engaged in a ''pattern or practice'' of violating the unserved household limitation and found that, as a matter of law, it was required to issue a permanent injunction barring Echostar from delivering network station signals to any subscribers (served or unserved) pursuant to the Section 119 license. CBS v. Echostar, 450 F.3d 505 (11th Cir. 2006). The appellate court's decision specifically directed the district court to issue the required injunction.

In August, 2006, after its efforts to appeal the Eleventh Circuit's ruling were rejected (but before the district court had implemented the appellate court's order), Echostar entered into a $100 million post–judgment settlement agreement with the affiliates of ABC, NBC, and CBS under which Echostar would, notwithstanding the appellate court's decision, be permitted to continue to provide network station signals to legitimately ''unserved'' customers. However, Fox did not join in the settlement and filed a motion with the district court demanding that it reject the settlement and implement the injunction as directed by the Court of Appeals.

The district court agreed with Fox and rejected the post–judgment settlement. The court stated that it was bound by the Eleventh Circuit's decision and lacked the discretion to alter that court's clear mandate. The court emphasized the fact that, as the Eleventh Circuit found, Section 119 requires the issuance of a permanent nationwide injunction where it has been determined that a satellite carrier engaged in a ''pattern or practice''of statutory violations. The court also rejected Echostar's claim that the issuance of a permanent nationwide injunction preventing the delivery of distant affiliates of any of the Big Four networks (ABC, CBS, NBC, and Fox), even to households that could not receive over–the–air network station signals, would ''work a manifest injustice on consumers.'' According to the court, Congress made the determination in Section 119 that a permanent injunction is the appropriate remedy for the illegal acts committed by Echostar. The district court issued an order directing Echostar to cease all retransmissions of distant broadcast station signals affiliated with ABC, CBS, NBC, and Fox, effective December 1, 2006. *See CBS v. Echostar*, ____ F.Supp. 2d ____, 2006 WL 4012199 (S.D. Fla. Oct. 20, 2006). We seek comment on the effect that the court's injunction has had on Echostar and its subscribers. For example, how many subscribers has Echostar lost to a competing satellite carrier or to a local cable operator because it can no longer provide distant network station signals to its subscribers? Do any Echostar subscribers currently receive distant network station signals through a third party provider? Are subscribers disadvantaged because of the Echostar injunction or are there other options? We seek comment on other significant court cases, or pending litigation, that are relevant to our inquiry here.

There are certain provisions found in Section 111, and not Section 119, that disadvantage satellite carriers. For example, are satellite carriers disadvantaged because they are unable to carry radio station signals under the Section 119 statutory license? Would it be appropriate for Congress to establish a satellite carrier statutory license for the retransmission of terrestrial radio station signals? Who would be harmed if Congress amended Section 119 to include the retransmission of local radio station signals? Alternatively, is there a continuing need for Section 111 to cover the retransmission of radio station signals? Are there any other provisions in Section 111, but not in Section 119, that create a competitive disparity between cable operators and satellite carriers?

We ask whether cable operators are hobbled by the terms of Section 111 that are not found in, or are different from, Section 119. As noted elsewhere, Section 111 contains definitions, terms, and conditions that are based on the FCC's old carriage requirements. The term ''network station'' under Section 111, for example, is part of a regulatory construct from 30 years ago when ABC, CBS, and NBC were the only networks, while the ''network station'' definition found in Section 119 is more current and comparable to the FCC's current definitions.[10] Fox, for example, is considered a network station for Section 119 purposes, but it is unclear whether it can be considered a network station for Section 111 purposes. Cable operators currently have to pay higher royalties for the retransmission of distant Fox station signals, as ''independent stations,'' than it would for distant ABC, NBC, or CBS station signals, that are ''network stations.'' Does this result disadvantage cable operators? Are there other terms in Section 111, and not Section 119, that competitively burden cable operators?

C. Necessity of the Licenses

Congress has asked us to analyze whether the statutory licenses are still justified by their initial purposes. In this section, we describe the different purposes behind each license and ask if they are still valid today. We also seek comment on whether the licenses have been successful in furthering the goals they were designed to achieve.

Section 111. As discussed earlier, before the Copyright Act was amended in 1976, cable operators had no copyright liability, and paid no fees at all, for the retransmission of either local or distant broadcast station signals. At the time, the FCC, the courts, and Congress, recognized the public benefits inherent in the delivery of distant signals by cable systems, but also recognized the property rights of the owners of content transmitted by broadcast stations. As such, the 1976 Copyright Act imposed liability for the first time, but it also provided cable operators an important and limited right to retransmit broadcast station signals without requiring the consent of copyright owners. Section 111 was enacted to respond to the needs of cable operators, who were much smaller at the time, and their subscribers, who valued the content transmitted by distant broadcast stations. In so doing, Congress recognized ''that it would be impractical and unduly burdensome to require every cable system to negotiate with every copyright owner whose work was transmitted by a cable system.''

[10] We note that both Paxson Communications and the NCTA have filed separate requests for clarification and rulemaking, respectively, on the scope of the network station definition under Section 111(f) of the Act. The Copyright Office has opened a proceeding to address Paxson's petition. See 65 FR 6946 (Feb. 11, 2000). The Copyright Office will soon be issuing a new NOI to elicit comment on NCTA's petition and to update the record on this subject.

H.R. Rep. No. 1476, 94th Cong., 2d Sess. 89 (1976).

Section 119. The satellite statutory license, adopted by Congress in the 1988 SHVA, was created to facilitate the delivery of broadcast network programming by satellite to (mostly rural) subscribers who, because of distance or terrain, were unable to receive a signal of at least Grade B intensity from a local television station affiliated with a particular television network. *See, e.g.*, 134 Cong. Rec. 28,582 (1988) (''The goal of the bill...is to place rural households on a more or less equal footing with their urban counterparts.'') (remarks of Rep. Kastenmeier); 134 Cong. Rec. 28,585 (1988) (''This legislation will increase television viewing choices for many rural Americans.'') (remarks of Rep. Slattery).

Section 119 of the Act had the dual purpose of: (1) enabling households located beyond the reach of a local affiliate to obtain access to broadcast network programming by satellite and (2) protecting the existing network/affiliate distribution system. H.R. Rep. No. 100–887, Part 1 on H.R. 2848, 100th Cong., 2d Sess., at 8 (Aug. 18, 1988). Congressional intent, as expressed in the House Judiciary Committee Report on the 1988 bill, stated, ''The bill rests on the assumption that Congress should impose a compulsory license only when the marketplace cannot suffice.'' Id. at 15. Similarly, the House Energy and Commerce Committee Report called the satellite carrier license ''a temporary, transitional statutory license to bridge the gap until the marketplace can function effectively.'' H.R. Rep. No. 887, Part 2, 100th Cong. 2d Sess. 15 (1988). In 1994, the satellite carrier license was extended for another five years on the basis that ''a marketplace solution for clearing copyrights in broadcast programming retransmitted by satellite carriers is still not available.'' S. Rep. No. 407, 103d Cong. 2d Sess. 8 (1994). Section 119 was extended in 1999 and 2004 through the SHVIA and SHVERA, respectively, as described above.

Section 122, which was enacted as part of the 1999 SHVIA, created a royalty–free statutory license for satellite carriers who wanted to carry the signals of local television stations. The provision was designed to promote competition among multichannel video programming distributors (i.e., satellite carriers and cable operators) while, at the same time, increase the programming choices available to consumers. *See* 145 Cong. Rec. H11811 (Nov. 9, 1999).

Statutory licenses are an exception to the copyright principle of exclusive rights for authors of creative works, and, historically, the Copyright Office has only supported the creation of statutory licenses when warranted by special circumstances. With respect to the cable license, the special circumstance was initially the apparent difficulty and expense of clearing the rights to all program content carried by distant television stations. We seek comment on whether the circumstances that warranted creation of Section 111, as reflected in its legislative history, still exist. If so, how? With regard to the Section 119 satellite carrier license, we note that the special circumstance warranting its creation was to provide rural and unserved households with valuable broadcast service. Has this goal been met? If so, how? As for Section 122, its primary mission was to strengthen satellite's competitive position against the incumbent cable industry. Has this goal been met? If so, how? If the licenses are no longer justified upon the bases for which they were created, what should Congress do with them? Alternatively, are there any new justifications for the retention of the statutory licenses for cable and satellite carriers?

D. Effect on Subscribers

1. *Rate Increases*

Section 109 of the SHVERA requires us to analyze the correlation, if any, between the royalties, or lack thereof, under Sections 111, 119, and 122 and the fees charged to cable and satellite subscribers. This is an area that we have not fully explored in any of our past reports on the statutory licenses. Thus, the novel threshold issue is how to properly gauge subscriber rate increases if any, due to Sections 111, 119, and 122. We therefore seek comment on the appropriate methodologies to perform this type of analysis. As noted above, cable operators, depending on size, generally pay anywhere between .4% and 1.5% of their gross receipts as royalties to copyright owners. We seek comment on whether cable operators are passing off these costs to subscribers as programming cost increases. While we do not have specific cost figures for satellite carriers, we similarly ask whether they too are passing off the royalties paid under Section 119 to their subscribers. We reiterate here that all broadcast station signals must be carried on a cable system's basic service tier that must be purchased by all cable subscribers. Satellite subscribers, on the other hand, are not required by law to purchase a package of local or distant station signals. How does this circumstance affect the analysis here? We also seek comment on whether cable operators or satellite carriers are offering any distant broadcast station signals on an a la carte basis so that only those subscribers who wish to purchase them bear the cost of any possible rate increase arising under the royalty fee structure.

2. *Rate Savings*

Section 109 also requires us to address whether cable and satellite companies have passed to subscribers any savings realized as a result of the royalty structure and amounts under such sections.

On this point, we note that our endeavor here is a difficult one because neither cable operators nor satellite carriers have been required to provide the Copyright Office with information regarding the costs of retransmitting distant broadcast station signals. Without such information, a determination as to whether ''savings'' are passed onto subscribers is hard to quantify. Further, the concept of ''savings'' is nonspecific and assumes a difference between actual and perceived cost. If what is meant by ''savings'' is the lesser fees that the cable and satellite industry pay by virtue of enjoying statutory licenses as opposed to negotiating private licenses, it must be remembered there are no private licenses precisely because of these licenses. In other words, it is difficult for us to determine what satellite carriers and cable operators might be paying for distant broadcast signals if they did not have statutory licensing. Without knowing the current marketplace rates for the retransmission of distant broadcast signals for cable and satellite, it is difficult to measure the value of ''savings'' that these industries enjoy as a result of statutory licensing. We do know, however, that any increases in the cost of local signals delivered by satellite carriers cannot be due to Section 122 because it is a royalty–free license. Given these circumstances, we seek comment on how to define the term ''savings'' and how to calculate if any ''savings'' have occurred under the existing regulatory structure, or may occur, through any proposed change in the licenses at issue. On this point, we seek comment on whether cable subscribers may realize ''savings'' if Congress were to adopt a flat fee structure or other change in the way royalties are calculated under Section 111. Further, is there any way to change the Section 119 license so that satellite subscribers may see a cost savings, if such are not evident today?

E. Application to Digital Signals

Section 109 of the SHVERA requires us to analyze issues that may arise with respect to the application of the licenses to the secondary transmissions of the primary transmissions of network stations and superstations that originate as digital signals, including issues that relate to the application of the unserved household limitations under Section 119, and to the determination of royalties of cable systems and satellite carriers.

At this juncture, it is important to recognize the differences between analog television and digital television. Analog television technology, which has been available to consumers for over sixty years, essentially permits a television broadcast station to transmit a single stream of video programming and accompanying audio. Digital television technology, on the other hand, enables a television station to broadcast an array of quality high–definition digital television signals (''HD''), standard–definition digital television signals (''SD''), and many different types of ancillary programming and data services. In 1997, the FCC adopted its initial rules governing the transition of the broadcast television industry from analog to digital technology, and authorized each individual television station licensee to broadcast in a digital format. Advanced Television Systems and Their Impact on Existing Television Broadcast Service, 12 FCC Rcd. 12809 (1997). Since that time, hundreds of television stations have been transmitting both analog and digital signals from their broadcast facilities, and television stations may choose to broadcast in a ''digital–only'' mode of operation, pursuant to FCC authorization. *See, e.g., Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279, 18321–22 (2004). This dual mode of broadcast television operation will soon end as Congress has established February 17, 2009 as the date for the completion of the transition from analog to digital broadcast television. *See* Pub. L. No. 109–171, Section 3002(a), 120 Stat. 4 (2006).

In 2006, the Copyright Office sought comment on several issues associated with the secondary transmission of digital television signals by cable operators under Section 111 of the Copyright Act. The Copyright Office initiated a Notice of Inquiry to address matters raised in a Petition for Rulemaking, filed jointly by several copyright owner groups, including the Motion Picture Association of America and sports rights holders. *See* 71 FR 54948 (Sept. 20, 2006) (''Digital Signals NOI''). Specifically, the copyright owners requested that the Copyright Office address recordkeeping and royalty calculation issues that have arisen in connection with the simultaneous retransmission of the signals of digital and analog broadcast stations by cable operators and whether and how cable operators should report the carriage of digital multicast programming streams on their SOAs. For example, they urged the Copyright Office to clarify that, if a cable operator chooses to carry a television broadcast station's analog and digital signals (either in high definition or as a multicast) that the cable operator should identify those signals separately in Space G on its SOA The Digital Signal NOI also sought comment on cable operator marketing and sales practices and equipment issues associated with the retransmission of digital broadcast signals that may result in possible changes to the Copyright Office's existing rules and the cable statements of account forms. For example, copyright owners requested that the Copyright Office clarify that a cable operator must include in its gross receipts any revenues from the tiers of service consumers must purchase in order to receive HDTV or other digital broadcast signals notwithstanding that the operator may market its offering of such digital signals as ''free.''

Comments and reply comments have been filed in the Digital Signals proceeding and the Copyright Office is currently analyzing the facts and legal arguments raised and addressed by the parties. In the Digital Signal NOI, the Copyright Office did conclude however, without relying on input from the parties, that there is nothing in the Copyright Act, its legislative history, or the Office's implementing rules, which expressly limits the cable statutory license to only analog broadcast signals.

We find that the issues discussed in this proceeding, regarding the retransmission of distant digital signals by cable operators, are essentially the same type of issues Congress has directed us to address in the Section 109 Report. As such, we do not believe it is necessary to seek comment on those same issues here. Rather, we will incorporate by reference the issues and arguments raised by the parties in the pending proceeding as we move forward with the Report. However, if any party, for any reason, missed the opportunity to file comments in response to the Digital Signals NOI, or would like to clarify certain points already raised, they may do so in this proceeding or in response to any further notices that the Copyright Office may issue in the future pertaining to the retransmission of digital television signals.

There are, however, some new questions we would like to raise here. For example, are digital television signals worth more or less in the marketplace? If so, how much and why? How should Congress treat the retransmission of digital low power and digital translator television station signals under Section 111? Should the language of Section 111 be substantially modified to take the retransmission of digital signals into account? Are there any other associated issues not yet addressed?

With regard to Section 119, we note that in 2005, the Copyright Office codified an agreement reached between satellite carriers and copyright owners setting rates for the secondary transmission of digital television broadcast station signals under Section 119 of the Copyright Act. The agreement set rates for the private home viewing of distant superstation and network station signals for the 2005–2009 period, as well as the viewing of superstations in commercial establishments. *See* 37 CFR 258.4. The agreement specified that distant superstations and network stations that are significantly viewed, as determined by the FCC, do not require a royalty payment under certain conditions, in compliance with 17 U.S.C. 119(a)(3), as amended. In addition, the agreement proposed that, in the case of multicasting of digital superstations and network stations, each digital stream that is retransmitted by a satellite carrier must be paid for at the prescribed rate but no royalty payment is due for any program–related material contained in the stream within the meaning of WGN v. United Video, Inc., 693 F.2d 622, 626 (7th Cir. 1982) and Carriage of Digital Television Broadcast Signals, 20 FCC Rcd 4516 (2005) at 44 & n.158. *See* 70 FR 39178 (July 7, 2005).

We seek comment on whether there are any new issues that we should be aware of regarding Section 119 and the retransmission of digital television signals. For example, how is the unserved household provision affected by the above agreement? What affect has the Echostar litigation had on the retransmission of distant digital television signals. What affect will the end of the digital transition in 2009 have on satellite carriers and the Section 119 statutory license? Given that Section 119 will expire about eleven months after the digital transition is scheduled to end, should the current version of the license be repealed in its entirety and replaced with one focusing only on the retransmission of distant digital television signals?

As for Section 122, we believe that the digital transition will not significantly affect the operation of this license. However, it may well affect the ''carry–one carry–all'' provisions of Section 338 of the Communications Act. In January 2001, the FCC sought comment on what type of digital carriage rules it should apply to satellite carriers under Section 338. *See Carriage of Digital Television Broadcast Signals*, 16 FCC Rcd 2598, 2658 (2001). This matter has been pending before the FCC for the last six years. We cannot gauge the effect a digital ''carry–one carry–all'' will have on the Section 122 statutory licenses until the FCC establishes policy in this area.

F. The Future of the Statutory Licenses

While not specifically enumerated in the language of Section 109, the statute's legislative history instructs the Copyright Office, based on an analysis of the differences among the three licenses, to consider whether they should be eliminated, changed, or maintained with the goal of harmonizing their operation. We now seek comment on the future of the statutory licenses. As detailed above, the cable statutory license, enacted in 1976, represents a number of compromises and requirements necessitated by the technological and regulatory framework in existence at that time. Since 1976, it is generally recognized that the cable industry has grown considerably larger,[11] and the video marketplace has evolved. It is also axiomatic that the license is based upon a defunct regulatory structure promulgated by the FCC in the 1970s. The Section 119 license, first enacted in 1988, was designed to allow satellite carriers to provide services comparable to cable to subscribers on the fringes of television markets. Congress intended for the license to sunset after a period of five years, but it has been renewed three times since 1988. Interestingly, rather than being phased out, the license has been significantly expanded over the years (*e.g.*, more restrictions and conditions on the retransmission of network station signals to unserved households, the retransmission of significantly viewed signals, application to digital television signals, etc.) while DirecTV and Echostar have dramatically increased subscribership in non–rural areas of the country. Based on the preceding, and taking into consideration the issues outlined below, we ask whether Section 111 and Section 119 should be retained in their current state, restructured, or discarded altogether.

Retention. If retention is the proper option, we seek comment on why this would be the best approach. On this point, we note that while the cable and satellite industries have grown substantially over the last decade, neither has any control over the particular programs that broadcast stations provide to the public or how such programs are scheduled. Further, there are hundreds more television stations today, including analog and digital stations (with some splitting their signal into as many as five individual multicasts) than there were thirty years ago. In addition, there are now significantly more television stations and networks targeting the nation's growing Latino population. Is the public's interest in continued access to a variety of diverse distant broadcast signals a significant consideration that merits retention? Are smaller cable operators who serve less populated and/or lower income households still in need of the license? Are there any other facts supporting retention? Section 119 requires satellite carriers to phase out the retransmission of network station signals to unserved households in markets where they offer local–into–local service. Generally, a satellite carrier will be required to terminate network station service (to unserved households) to any subscriber that elected to receive local–into–local service and would be precluded from providing network station signals (to unserved households) to new subscribers in markets where local–into–local service is available. *See* 17 U.S.C. 119(a)(4). Assuming that Section 122 is retained, does it make sense to also retain Section 119, when in 2009, most television markets likely will be provided with local–into–local service by Echostar and DirecTV?

Modification. If Section 111 were to be amended, we seek comment in support of this approach and on the scope of the proposed changes. On this point, we note that in 2006, the Copyright Office sought comment on several issues associated with cable operator reporting practices under the Copyright Office's regulations found in 37 CFR 201.17. The Copyright Office initiated a Notice of Inquiry to address matters raised in a Petition for Rulemaking filed jointly by several copyright owner groups. The Notice of Inquiry sought comment on proposals requiring additional information to be reported on a cable operator's SOA, particularly information relating to gross receipts, service tiers, subscribers, headend locations, and cable communities. The Notice of Inquiry also sought comment on the need for regulatory clarification regarding the effect of cable operator'' interest payments that accompany late-filed SOAs or amended SOAs. Finally, the Notice of Inquiry sought comment on the need to clarify the definition of the term cable ''community'' in its regulations to comport with the meaning of ''cable system'' as defined in Section 111. *See* 71 FR 45749 (Aug. 8, 2006). Comments and reply comments have been filed in response to this NOI and the docket remains pending.

In this context, we ask whether the entire section should be amended to reflect the current marketplace (such as the advent of digital television described above) and the existing regulatory framework established by the FCC? Alternatively, should the amendments be limited to certain subject matter, such as the royalty fee structure? For example, should the royalty payment scheme of the license, based upon each cable system's gross receipts for the retransmission of broadcast signals, be simplified so as to remove reliance upon the old FCC rules? Under the Section 111 license, distant network station signals are currently paid for at a lower royalty rate (.25 DSE) than distant independent station signals (1.0 DSE). Should this disparity be eliminated, so that all stations are paid for at the same rate? Should Congress enact a flat fee royalty system for cable operators like that in place for satellite carriers? If so, how could Congress build into the flat fee structure a surrogate for the 3.75 percent rate for additional non–permitted distant signal retransmissions? Should the gross receipts requirements in the cable license be eliminated under a flat fee approach? Would a flat rate structure for determining royalties under Section 111 have any adverse consequences for copyright owners? Would such a restructuring be more disruptive than beneficial?

Small cable operators may experience a significant increase in royalty payments under a flat fee system. This increase in turn could lead to a loss of broadcast service for rural cable subscribers that lack the variety of broadcast stations found in the top 100 television markets. We ask whether

[11] There are currently 65 million U.S. households that subscribe to cable television. *See* http://ncta.com/ncta__com/PDFs/NCTAAnnual%20Report4-06FINAL.pdf. *But see*, Steve Donohue, *Cable Penetration Hits 17-Year Low*, Multichannel News, March 19, 2007(stating that there are 68.3 million cable television households according to Nielsen Media Research data). In comparison, there are about 29 million satellite television households. See http://www.directv.com (DirecTV has over 16 million subscribers) and http://www.dishnetwork.com (Echostar has have 13 million subscribers).

these concerns are justified. Are lower rates still needed as an inducement for small cable systems to retransmit distant signals to communities unserved or underserved by local broadcast stations? If not, should Congress eliminate the historical disparities between small and large cable systems contained within the Section 111 regulatory structure? For example, should the SA1–2 rate be aligned with the minimum SA–3 rate? Should the distinction between SA1–2 and SA–3 be eliminated? Is it possible for Congress to modify the subsidy for small cable systems under Section 111 in a way that is fair and equitable for both cable operators and copyright owners?

The cable industry has experienced considerable marketplace change since 1997. The FCC's examination of the state of the cable industry in the last several years demonstrates that the cable industry has become far more concentrated and integrated. *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 21 FCC Rcd 2503 (2006). Given this trend, should the cable statutory license be amended to address the significant amount of mergers and acquisitions in the cable industry over the last thirty years? At the same time, cable franchising authority has become more concentrated as well. We note that several states, such as California, have enacted new laws that transfer franchising authority from local governments to state governments. *See* Corey Boles, *Verizon Gets California Video Franchise, Wall Street Journal*, March 9, 2007, at B4. We ask whether and how statewide franchises affect the Section 111 license.

Since the implementation of the cable statutory license by the Copyright Office in 1978, the cable industry has raised concerns about the ''cable system'' definition found in Section 111(f) of the Act. Recently, the NCTA petitioned the Copyright Office to commence a rulemaking proceeding to address cable copyright royalty anomalies arising from the current ''cable system'' definition as it has been implemented by the Copyright Office. In its Petition, NCTA states that where two independently built and operated systems subsequently come under common ownership due to a corporate acquisition or merger, the Copyright Office's rules require that the two systems be reported as one. Similarly, where a system builds a line extension into an area contiguous to another commonly–owned system, the line extension can serve as a ''link'' in a chain that combines several commonly–owned systems into one entity for copyright purposes. NCTA asserts that, in either of these cases, dramatically increased royalties can result. NCTA states that royalty obligations may increase as a result of the Copyright Office's policy of attributing carriage of a signal to all parts of a cable system, whether or not the station is actually carried throughout the system. In NCTA's view, a ''phantom signal'' event arises when a cable system pays royalties based on the carriage of the signals of distant broadcast stations after a cable system merger, even if those signals are not, and even may not be, delivered to all subscribers in the communities served by the cable system. Industry concerns about phantom signals have steadily increased as cable operators have merged and grown. While we may open an inquiry into this issue in the future, we nevertheless seek comment on whether Congress should amend Section 111 and provide a legislative solution to the problem.

In 1997, the Copyright Office recommended that Congress amend Section 111(f) to define when two cable systems under common ownership or control are, in fact, one system for purposes of Section 111 in light of technological advances in headends and for other reasons. If a flat, per subscriber fee is not adopted, the same part of Section 111(f) should also be amended to calculate cable rates only on those subscriber groups that actually receive a particular broadcast signal. The Copyright Office believed that this recommendation would help eliminate the ''phantom signal'' problem. *See 1997* Report at 46–47.

We ask whether the cable license should be subject to renewal every certain number of years, perhaps in synchronization with the renewal of the satellite carrier statutory license. This would allow Congress to update Section 111 on a periodic basis and examine, in tandem with Section 119, whether the licenses are serving their intended purposes. Are there any drawbacks related to this proposal?

With regard to reforming Section 119, we ask what particular sections should be modified. For example, should the unserved household provision be amended? Should the provision account for the recent distant network signal injunction involving Echostar? If so, how? The current satellite carrier license will expire at the end of 2009. Assuming that Section 119 remains a standalone provision, should the license be extended on a permanent basis, or is temporary extension still an appropriate solution? As discussed above, should the provisions directed at the retransmission of distant analog signals be replaced with ones directed at the retransmission of distant digital signals?

Section 122 is a relatively noncontroversial provision that has served satellite carriers, broadcasters, and consumers well. In any event, we seek comment on whether this license should be modified, and if so, how? For example, does it need to be amended to reflect the retransmission of digital television signals? Could the license be improved to function better?

Uniform License. We seek comment on whether Congress should instead adopt a uniform statutory license encompassing the retransmission of local and distant signals by both cable operators and satellite carriers. If such a license is recommended, how should it be structured? Would a uniform rate for the retransmission of distant broadcast signals, applicable to both cable operators and satellite carriers, effectively level competition among the providers? Would reporting of cable royalties be easier and less intrusive? What are the barriers regarding the formation of a single license? How would Section 122's provisions fit into a uniform license?

Expansion. Content delivery technology has evolved and changed at an incredibly rapid pace since 1997 when the Copyright Office last examined the cable and satellite statutory licenses. Whereas ten years ago, the Copyright Office was concerned about open video systems and the Section 111 license, *See* 1997 Report at 62–76, today that delivery system and the concerns it generated seems antiquated. Currently, video programming streamed or downloaded through the Internet to computers, mobile devices, and digital television sets, are commanding the attention of the media and content industries. Given that we are obliged to provide Congress with recommendations based on current circumstances, we seek comment on whether the current statutory licensing schemes should be expanded to include the delivery of broadcast programming over the Internet or through any video delivery system that uses Internet Protocol. In the alternative, we ask whether licensing of discrete broadcast programming should be allowed to evolve in the marketplace. It is important to note here, that unlike cable systems and satellite carriers, Internet video providers do not own any transmission facilities; rather, they host and distribute video programming through software, servers, and computers connected to the Internet.

There are currently three different technological paradigms for openly

distributing video programming, including broadcast content, over the Internet. One method is to stream video content that may be accessed by anyone with an Internet connection. Youtube, Yahoo, MSN, AOL are the most popular distributors of streamed video content. The second method to deliver video content to end users is through server downloads. This type of delivery system has been used by such firms' as Apple's iTunes, CinemaNow, and MovieLink. The last method is peer–to–peer video delivery. This involves the sharing and delivery of user specified files among groups of people who are logged on to a file sharing network. BitTorrent and Joost deliver video content in such a manner. There are two prevailing business models that reign over these distribution technologies. Internet video programming distributors may adopt a download–to–own (or rent) model where users pay a fee to access content. Alternatively, they may provide content to end users under an ad–supported model, just like traditional commercial broadcast television. *See* Todd Spangler, *BitTorrent Goes Legit With Online Store*, Multichannel News, March 12, 2007, at 32.

We recognize that the Internet is not analogous to the technologies originally licensed under Section 111, 119, and 122, but the move toward technological convergence and the advent of broadcast quality video over the Internet during the last five years calls for a close re–examination of the licenses at issue here. For example, Virtual Digital Cable (''VDC''), a new Internet video programming provider, currently offers multiple channels of video programming to subscribers across the United States and plans to carry local broadcast television stations as part of its service offerings. *See* http://www.vdc.com.; *see also Bid to Put Local TV Signals Online Tests Internet Broadcast Rights, Communications Daily*, July 19, 2006, at 6. Given the advent of VDC, and similar outlets such as TVU Networks (http://www.tvunetworks.co/index.htm), we seek comment on whether a new statutory license should be created to cover the delivery of broadcast signals over the Internet. If so, how could this be achieved? Could the availability of broadcast content distributed over the Internet be considered a ''retransmission'' as that term has been used in the Copyright Act? Would the answer to this question be different if the owner of the broadcast content, such as the television network, is delivering the content rather than a third party website? Would the retransmission of a broadcast station's signal implicate the reproduction right under Section 106 of the Copyright Act, in addition to the performance right, given that Internet retransmissions require the making of temporary copies on servers necessary for retransmission? Is there any evidence of marketplace failure requiring a statutory license to ensure the public availability of broadcast programming?

There are also video programming distribution systems that use Internet Protocol technology (''IPTV'') to deliver video content through a closed system available only to subscribers for a monthly fee. AT&T, for example, currently uses IPTV to provide multichannel video service in competition with incumbent cable operators and satellite carriers. We seek comment on whether new types of video retransmission services, such as IPTV–based services offered by AT&T, may avail themselves of any of the existing statutory licenses. Must a new license be created, instead? We also seek comment on whether a statutory license for IPTV–based services, if confined to a closed system available only to subscribers in the United States, would violate any international agreements and treaty obligations.

Recent advances in wireless technology have enabled the reception of video content on mobile telephones and similar devices. For example, Verizon Wireless, in partnership with MediaFLO USA, has recently introduced V Cast Mobile TV service in several markets across the United States. This service features a full complement of eight channels available to Verizon Wireless voice customers for an additional fee. Programming on V Cast Mobile TV is provided by CBS, NBC, Fox, ESPN, and others. AT&T's Cingular Wireless has announced that it too will offer mobile television service, in addition to wireless voice service, in the near future. *See* Rhonda Wickham, V Cast Mobile TV Goes Live, WirelessWeek, March 1, 2007; *see also*, Mike Shields, *CBS, NBC and ESPN Unveil Plethora of New Mobile Content*, Mediaweek, March 27, 2007. The mobile phone industry, including Verizon and AT&T, have not announced any plans to retransmit local or distant television station signals over their wireless networks. Nevertheless, we seek comment on whether Sections 111, 119, and 122 should be expanded to include the retransmission of broadcast signals over wireless networks and to mobile reception devices. Should there be a single new statutory license that encompasses the retransmission of broadcast signals for use by cable, satellite, IPTV, the Internet, and wireless networks/mobile devices? Or, do the examples provided above demonstrate that the video marketplace is functioning smoothly and there is no need for a statutory license at all?

Elimination. We seek comment on whether the licenses should be eliminated rather than expanded. As noted above, the cable industry has grown significantly since 1976, in terms of horizontal ownership as well as subscribership, and generally has the market power to negotiate favorable program carriage agreements. Given these facts, has Section 111 served its purpose and is no longer necessary? Do these factors alone merit the elimination of the license? DirecTV and Echostar did not serve any customers in 1988, but now count at least 27 million subscribers among the both of them. They, too, have the market power and bargaining strength to negotiate favorable program carriage agreements. Given these developments, should Section 119 also be phased out? A year ago, we concluded that the Section 119 license harms copyright owners because the current statutory rates do not reflect fair market value of the signals being transmitted. *See Satellite Home Viewer Extension and Reauthorization Act § 110 Report*, A Report of the Register of Copyrights (February 2006) at 44–45. Is this an additional reason to eliminate Section 119?

On the content side, we note that broadcast television networks, such as Fox and NBC, have begun to offer streamed network video content on their owned and operated websites. *See* Mike Shields, *YouTube Faces Challenge, Mediaweek*, March 22, 2007 (describing News Corp. and NBC Universal's new partnership to launch an Internet video distribution channel). Moreover, some affiliates of Fox plan to stream network and local content over the Internet into their local markets. *See* Harry Jessell, *Affils To Offer Fox Shows On Local Web Sites*, TVNEWSDAY, March 1, 2007. We seek comment on whether there are similar streaming arrangements being planned by other television broadcast networks. Is there any evidence that this type of video distribution model will become ubiquitous? If so, we ask whether statutory licenses are necessary when anyone with an Internet connection may watch broadcast television content without the need to subscribe to an MVPD.[12]

[12] One company recently petitioned the FCC to declare that the Commission has no authority to regulate the distribution of video content over the Internet. *See* Network2 Petition for Declaratory Ruling That Internet Video is not Subject to Regulation Under Title III or Title VI of the

In the absence of the statutory licenses, cable operators, satellite carriers, and copyright owners would have to negotiate the rights to carry programs according to marketplace rates, terms, and conditions. As stated earlier, cable operators and satellite carriers have successfully negotiated the right to carry local television broadcast signals of the major broadcast networks under the retransmission consent provisions found in Section 325 of the Communications Act. We seek comment on whether we should recommend to Congress that Sections 111 and 119 be repealed and superceded by Section 325 so that distant broadcast stations can freely negotiate signal carriage rights with cable operators and satellite carriers without reference to a statutory license.[13] Could retransmission consent perform the same payment functions as Section 111 and Section 119? In other words, is there any way a retransmission consent agreement can be structured so that the monetary value of the underlying content is collected by broadcast stations and then paid to the copyright owners of the programs that are retransmitted? Is there any reason why retransmission consent would not work for the retransmission of distant television signals? Are there any contractual impediments, such as network–station affiliation arrangements, that would preclude the retransmission of distant television signals under a privately negotiated agreement? Are there any legal impediments, such as the FCC's network non–duplication rules, that would frustrate private agreements? Is it difficult for small cable operators to negotiate the rights necessary to carry the signals of distant television stations? Would the elimination of the statutory licenses cause harm to cable or satellite subscribers? If so, how?

III. CONCLUSION

We hereby seek comment from the public on the legal and factual matters identified herein associated with the retention, reform, or elimination of Sections 111, 119, and 122 of the Copyright Act. If there are any additional issues not discussed above, we encourage interested parties to bring those matters to our attention.

Dated: April 11, 2007

Marybeth Peters,

Register of Copyrights.

[FR Doc. E7–7207 Filed 4–13–07; 8:45 am]

BILLING CODE 1410–30–S

Communications Act, filed March 20, 2007. The Petition did not raise for comment whether Internet video programming distributors may still avail themselves of the statutory licenses under the Copyright Act.

[13] One cable operator appears to advocate the replacement of retransmission consent with a new statutory license covering the cable retransmission of local broadcast television signals. *See* Ted Hearn, *Willner Calls for Tax to Aid TV Stations*, Multichannel News, March 13, 2007 (Insight Communications CEO Michael Willner has proposed a ''TV tax'' to replace retransmission consent that would fund a ''federal royalty pool'' ''similar to the one used to compensate sports leagues and Hollywood studios'').

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather C. Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (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: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4) and (6) of section 552b of Title 5, United States Code.

1. *Date:* May 1, 2007.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications for Landmarks of American History and Culture, submitted to the Division of Education Programs, at the March 15, 2007 deadline.
2. *Date:* May 2, 2007.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 415.
   Program: This meeting will review applications for Radio Projects: Development and Production Grants, submitted to the Division of Public Programs, at the March 20, 2007 deadline.
3. *Date:* May 2, 2007.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications for Landmarks of American History and Culture, submitted to the Division of Education Programs at the March 15, 2007 deadline.
4. *Date:* May 24, 2007.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted in response to the Endowment's Digital Humanities Initiative at the April 3, 2007 deadline.
5. *Date:* May 29, 2007.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted in response to the Endowment's Digital Humanities Initiative at the April 3, 2007 deadline.
6. *Date:* April 31, 2007.
   Time: 9 a.m. to 5 p.m.
   Room: 315.
   Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted in response to the Endowment's Digital Humanities Initiative at the April 3, 2007 deadline.

Heather C. Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. E7–7197 Filed 4–13–07; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 50–155; 72–043; License No. DPR–06]

In the Matter of: Consumers Energy Company (Big Rock Point Facility); Order Approving Transfer of License and Conforming Amendment

I.

Consumers Energy Company (Consumers) is the holder of Facility

Operating License No. DPR–06, which authorizes the possession and use of the Big Rock Point site (Big Rock), and an onsite Independent Spent Fuel Storage Installation (ISFSI) under a general license, SFGL–16, granted pursuant to Title 10 of the Code of Federal Regulations (CFR), § 72.210. Consumers is licensed by the U.S. Nuclear Regulatory Commission (NRC, the Commission) to operate the Big Rock ISFSI. The facility is located at the licensee's site in Charlevoix, Michigan. In 2006, Consumers completed decommissioning and decontamination of the majority of the land on the site. On April 3, 2006, Consumers informed the Commission of its intent to release approximately 475 acres of land from the operating license, in accordance with the Big Rock license termination plan. Consumers submitted its final status survey report on November 2006, and NRC approved the release of the land in a letter to the licensee dated January 8, 2007. The only asset remaining subject to the license is a parcel of land of approximately 30 acres within which the ISFSI itself resides, and an additional parcel of approximately 75 acres adjacent to the ISFSI.

II.

By letter dated October 31, 2006, Consumers, Entergy Nuclear Palisades, LLC (ENP), and Entergy Nuclear Operations, Inc. (ENO) (collectively, ''the applicants'') submitted an application requesting approval of the direct transfer of Consumers' interest in Big Rock Facility Operating License DPR–06 and general ISFSI License No. SFGL–16 to ENP to possess and own, and ENO, to control and operate, the Big Rock ISFSI and certain additional lands.

Consumers, ENP, and ENO also requested approval of a conforming license amendment that would replace references to Consumers in the license with references to ENP and ENO to reflect the direct transfer of ownership, and revise paragraph 1.A in the license to be consistent with paragraph 2 regarding the disposition of the Facility Operating License. No physical changes to the facilities or operational changes were proposed in the application. After completion of the proposed transfer, ENP and ENO would be the owner and operator, respectively, of Big Rock and the ISFSI.

Approval of the transfer of the facility operating license and conforming license amendment is requested pursuant to 10 CFR 50.80 and 72.50. Notice of the request for approval and opportunity for a hearing were published in the **Federal Register** on January 30, 2007 (72 FR 4302–4303). A petition for leave to intervene pursuant to 10 CFR 2.309 was received from Nuclear Information and Resource Service, Do Not Waste Michigan, and Mr. Victor McManemy. The petition is under consideration by the Commission.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Pursuant to 10 CFR 72.50, no license or any part included in a license issued under this part for an ISFSI shall be transferred, assigned, or in any matter disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that ENP is qualified to hold the ownership interests in the facility previously held by Consumers, and ENO is qualified to hold the operating authority under the license, and that the transfers of ownership and operating interests in the facility to ENP and ENO, respectively, described in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the condition set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I. The facility will operate in conformity with the applications, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public, or the environment, and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public, or the environment; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by NRC's Safety Evaluation Report dated April 6, 2007.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act; 42 U.S.C. 2201(b), 2201(i), and 2234; 10 CFR 50.80 and 10 CFR 72.50, *It is hereby ordered* that the direct transfer of the license, as described herein, to ENP and ENO is approved, subject to the following condition:

> Prior to completion of the transfer of the license, Entergy shall provide the Directors of the Office of Nuclear Reactor Regulation and the Office of Federal and State Materials and Environmental Management Programs satisfactory documentary evidence that it has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

It is further ordered that, consistent with 10 CFR 2.1315(b), license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order to conform the license to reflect the subject direct license transfer, is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

It is further ordered that ENP and ENO shall inform the Directors of the Office of Nuclear Reactor Regulation and the Office of Federal and State Materials and Environmental Management Programs in writing of the date of closing of the transfer of the Consumers interest in Big Rock to ENP and ENO, at least 1 business day prior to closing. Should the transfer of the license not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided; however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated October 31, 2006, and the Safety Evaluation Report dated April 6, 2007, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by

telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland this 6th day of April, 2007.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E7–7208 Filed 4–13–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255; Renewed License No. DPR–20]

In the Matter of Consumers Energy Company Nuclear Management Company (Palisades Nuclear Plant); Order Approving Transfer of License and Conforming Amendment

I.

Consumers Energy Company (Consumers) and Nuclear Management Company, LLC (NMC) are holders of Renewed Facility Operating License No. DPR–20, which authorizes the possession, use, and operation of Palisades Nuclear Plant (Palisades). Consumers is authorized to possess and use, and NMC is authorized to possess, use, and operate Palisades. The facility is located at the licensee's site in Van Buren County, Michigan.

II.

By letter dated August 31, 2006, Consumers, NMC, Entergy Nuclear Palisades, LLC (ENP), and Entergy Nuclear Operations, Inc. (ENO) (collectively, ''the applicants'') submitted an application to the U.S. Nuclear Regulatory Commission (NRC or Commission) requesting approval of the direct transfer of Renewed Facility Operating License No. DPR–20 from Palisades to ENP. The application is in connection with the sale of Consumer's ownership interest (100 percent) in Palisades to ENP, and the related transfer of operating authority for the facility from NMC to ENO.

Supplemental information was provided by letters dated December 15, 2006, and March 1 and April 4, 2007 (hereinafter, the August 31 application and December 15, 2006, and March 1 and April 4, 2007, supplemental information will be referred to collectively as the ''application''). The applicants also requested approval of a conforming license amendment that would replace references to Consumers and NMC in the license with references to ENP and ENO to reflect the transfer of ownership, and would revise paragraph 1.B in the license to be consistent with paragraph 2 regarding the disposition of the Provisional Operating License. No physical changes to the facilities or operational changes were proposed in the application. After completion of the proposed transfer, ENP and ENO would be the owner and operator, respectfully, of the facility.

Approval of the transfer of the facility operating license and conforming license amendment is requested by the applicants pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR). Notice of the request for approval and opportunity for a hearing were published in the **Federal Register** on November 16, 2006 (71 FR 66805). No comments were received. A petition for leave to intervene pursuant to 10 CFR 2.309 was received on December 5, 2006, from the Van Buren County, Covert Township, Covert Public Schools, Van Buren County Intermediate School District, Van Buren County District Library, Lake Michigan College, and South Haven Hospitals. A second petition for leave to intervene pursuant to 10 CFR 2.309 was received on December 6, 2006, from Michigan Environmental Council and Public Interest Research Group. The petitions are under consideration by the Commission.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that ENP is qualified to hold the ownership interests in the facility previously held by Consumers, and ENO is qualified to hold the operating authority under the license, and that the transfer of ownership interests and the operating interests in the facility to ENP and ENO, respectively, described in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the applications, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by NRC safety evaluations dated April 6, 2007.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the transfer of the license, as described herein, to ENP and ENO is approved, subject to the following condition:

> Prior to completion of the transfer of the license, Entergy shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that it has obtained the appropriate amount of insurance required of a licensee under 10 CFR part 140 of the Commission's regulations.

It is further ordered that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

It is further ordered that ENP and ENO shall inform the Director of the Office of Nuclear Reactor Regulation in writing of the date of closing of the transfer of the Consumers and NMC interests in Palisades, at least 1 business day prior to closing. Should the transfer of the license not be completed within one year of this Order's date of issue, this Order shall become null and void, provided; however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated August 31, 2006, as supplemented by letters dated December 15, 2006, and March 1 and April 4, 2007, and the non-proprietary safety evaluation dated April 6, 2007, which are available for

public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O–1 F21 (First Floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 6th day of April 2007.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E7–7210 Filed 4–13–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Sunshine Act Meetings

DATE: Week of April 9, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL MATTERS TO BE CONSIDERED:

Week of April 9, 2007

Wednesday, April 11, 2007

10:15 a.m. Affirmation Session (Public Meeting).

a. Final Rule to Update 10 CFR Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants'' (RIN AG24).

b. Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station) Docket No. 50–271–LR, LBP–06–20, 64 NRC 131, 175–82 (2006).

Week of April 16, 2007—Tentative

Tuesday, April 17, 2007

12:55 p.m. Affirmation Session (Public Meeting).

a. Final Rulemaking—10 CFR Part 26—Fitness-for-Duty Programs (Tentative).

b. Final Rulemaking on Limited Work Authorizations (Tentative).

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

Additional Information

By a vote of 5–0 on April 10, 2007, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Final Rule to Update 10 CFR Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants (RIN AG24)'' be held April 11, 2007, and on less than one week's notice to the public.

By a vote of 4–1 on April 10, 2007, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station) Docket No. 50–271–LR, LBP–06–20, 64 NRC 131, 175–82 (2006)'' be held on April 11, 2007, and on less than one week's notice to the public. This item was previously scheduled for affirmation on Tuesday, April 17, 2007, at 12:55 p.m.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: April 10, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–1886 Filed 4–12–07; 12:37 pm]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting

Board meeting: May 15, 2007—Arlington, VA; The U.S. Nuclear Waste Technical Review Board will meet to discuss U.S. Department of Energy activities related to the possible development of a repository for spent nuclear fuel and high-level radioactive waste at Yucca Mountain in Nevada.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, the U.S. Nuclear Waste Technical Review Board will meet in Arlington, Virginia, on tuesday, May 15, 2007. The Board was created in the Nuclear Waste Policy Amendments Act of 1987 and charged with performing an independent review of the technical and scientific validity of U.S. Department of Energy (DOE) activities related to disposing of, packaging, and transporting spent nuclear fuel and high-level radioactive waste.

At the May meeting, the Board will discuss several topics, including the use of depleted uranium oxide, a drilling program carried out by Inyo County in California, waste package designs, DOE's saturated zone model, near-field chemistry, probabilistic volcanic hazards analysis, and Global Nuclear Energy Partnership.

A final meeting agenda will be available on the Board's Web site (*www.nwtrb.gov*) approximately one week before the meeting date. The agenda also may be obtained by telephone request at that time. The meeting will be open to the public, and opportunities for public comment will be provided.

The meeting will be held at the Crowne Plaza Hotel; 1480 Crystal Drive; Arlington, Virginia 22202; (tel) 703–416–1600; (fax) 703–416–1651.

The meeting will begin at 8 a.m. with an overview of the Yucca Mountain program. Presentations on the use of depleted uranium oxide as a chemical barrier, Inyo County's drilling program, and the second-generation waste package design will follow. After lunch, the Board will be briefed on waste streams and disposition options related to DOE's Global Nuclear Energy Partnership, Sandia National Laboratory's saturated zone model for

Yucca Mountain, the potential near-field chemistry in repository tunnels, and waste package design and prototype development. An update on probabilistic volcanic hazards analysis will complete the day's agenda.

Time will be set aside at the end of the day for public comments. Those wanting to speak are encouraged to sign the ''Public Comment Register'' at the check-in table. A time limit may have to be set on individual remarks, but written comments of any length may be submitted for the record.

Transcripts of the meetings will be available on the Board's Web site, by e-mail, on computer disk, and on a library-loan basis in paper format from Davonya Barnes of the Board's staff no later than June 4, 2007.

A block of rooms has been reserved for meeting participants at the Crowne Plaza. When making a reservation, please state that you are attending the NWTRB meeting. Reservations should be made by April 21, 2007, to ensure receiving the meeting rate.

For more information, contact Karyn Severson, NWTRB External Affairs; 2300 Clarendon boulevard, Suite 1300; Arlington, VA 22201–3367; (tel) 703–235–4473; (fax) 703–235–4495.

Dated: April 11, 2007.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 07–1876 Filed 4–13–07; 8:45 am]

BILLING CODE 6820–AM–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

April 26, 2007 Board of Directors Meeting

Time and Date: Thursday, April 26, 2007, 10 a.m. (Open Portion) 10:15 a.m. (Closed Portion).

Place: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

Status: Meeting Open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

Matters to be Considered:

1. President's Report.
2. Tribute—Ambassador Josette Sheeran.
3. Tribute—Steven J. Law.
4. Approval of January 18, 2007 Minutes (Open Portion.

Further Matters to be Considered: (Closed to the Public 10:15 a.m.)

1. Report from Audit Committee.
2. Finance Project—Global.
3. Finance Project—Central America.
4. Finance Project—Israel.
5. Finance Project—Latin America and Pakistan.
6. Approval of January 18, 2007 Minutes (Closed Portion).
7. Pending Major Projects.
8. Reports.

Contact Person for Information: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: April 12, 2007.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 07–1903 Filed 4–12–07; 3:15 pm]

BILLING CODE 3210–01–M

POSTAL REGULATORY COMMISSION

[Docket No. MC2007–2; Order No. 9]

Repositionable Notes Minor Classification Change

AGENCY: Postal Regulatory Commission.

ACTION: Notice and order.

SUMMARY: This document establishes a formal docket to consider extending the provisional Repositionable Notes (RPN) service by one year. Shortly before the expiration date, the Postal Service filed a request seeking to maintain the status quo to allow time to determine how RPNs may be affected by the recent implementation of the Postal Accountability and Enhancement Act (PAEA). This document describes the requested change and identifies several initial procedural steps, including authorization of settlement negotiations.

DATES: April 20, 2007: Deadline for intervention, responses to request for consideration under rule 69, comments on suspension of this docket, answers to Conditional Motion for Waiver, and comments on appropriateness of authorizing settlement procedures.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

Regulatory History

71 FR 3894 (January 24, 2006).

I. Background

Under the terms of the Domestic Mail Classification Schedule (DMCS), provisional Repositionable Notes (RPN) service expires April 3, 2007, barring the Service's filing of a request to continue to test the service or to make it a permanent offering. *See* DMCS 221.336(a). Notice is hereby given that on April 2, 2007, the Postal Service filed with the Commission a Request, along with related pleadings, that tolls the scheduled expiration date by seeking establishment of a docket to consider a change which would extend expiration by one year, to April 2, 2008.[1]

The instant Request was filed pursuant to section 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.* The Request identifies with specificity the requested change in the expiration date in affected DMCS classification provisions and in the associated rates specified in certain rate schedules. Related concurrent filings include the Direct Testimony of Broderick A. Parr (USPS–T–1); a separate Notice addressing, among other things, the Service's interest in settlement; and a pleading including a Conditional Motion for Waiver.[2]

The Service also suggests, in the alternative, that suspension of the docket might be appropriate. Request at 1–2. The rationale for this suggestion is the Service's belief that it might be advisable to wait until PAEA implementation matures sufficiently to illuminate other options for moving forward or until the Service files another request involving RPNs. *Id.* at 2.

The Service asserts that the requested change conforms with the criteria of 39 U.S.C. 3623(c), and will further the general policies of efficient postal operations and reasonable rates and fees enunciated in the Postal Reorganization Act. *Id.* It states the requested change is intended to maintain *status quo ante* and avoid disruption for mailers currently using RPN service and those that may be considering such use.

II. Application of Expedited Rules

Rationale for filing under rules for expedited minor classification cases. The Postal Service denominates its request as a minor classification change,

[1] Request of the United States Postal Service for a Recommended Decision on Change of Expiration Date for Provisional Repositionable Notes Classifications and Rates, April 2, 2007 (Request). The Request includes three attachments. Attachment A consists of the Service's proposed changes in the DMCS. Attachment B is an index of direct testimony. Attachment C is a statement of compliance with Commission rules 64, 69 and 69a.

[2] Notice of Filing of Request of the United States Postal Service for a Recommended Decision on Change of Expiration Date for Provisional Repositionable Notes Classifications and Rates (Notice) and Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver (Conditional Motion for Waiver), both filed April 2, 2007.

in conformance with rule 69, and seeks to have it considered under the Commission's rules for expedited minor classification cases. Notice at 1; 39 CFR 3001.69. In support of this treatment, it notes that the requested change is minor. It also observes that although no particular need for expedition exists, the proposed change meets the requirements set out in the expedited rules, as it does not involve a change in any rate or fee; does not impose any additional eligibility restrictions; and will not significantly change the estimated institutional cost contribution of the affected subclasses. Request at 3.

III. Suspension Option

The Service asserts that the Commission has some discretion in handling the Request in light of current PAEA implementation activity. It observes:

> While the formal thrust of this Request would extend expiration of RPN provisional service until April 3, 2008, the Postal Service would also support another procedural option. The Commission could suspend all activity in this docket until PAEA implementation matures sufficiently to illuminate other options for moving forward, or until a further request involving RPNs is filed. The Postal Service is prepared to defer to the Commission's preference here.

Id. at 2. The Service addresses additional issues related to suspension in the accompanying Notice. Notice at 2.

IV. Preliminary Procedural Steps

The Commission's rules for expedited minor classification cases set out several pre-established deadlines designed to foster expedition. For example, rule 69 requires that the Commission issue notice of the proceeding within 5 days of the Service's filing. This notice, among other things, must afford interested persons 15 days after filing of the Postal Service's request to intervene and to respond to the Postal Service's proposal to have its Request considered under rule 69 procedures. Consistent with this requirement, intervention shall be allowed until April 20, 2007. Intervenors seeking a hearing on issues raised in the Request shall identify the fact or facts in the Postal Service filing that require a hearing.

To assist the Commission in determining an appropriate course of action, intervenors, in addition to addressing the appropriateness of using the expedited rules in this proceeding, are invited to address the Service's suggestion that suspension is an appropriate option; the Service's conditional Motion for Waiver; and the possibility of settlement. These pleadings, which may be combined, are due no later than April 20, 2007.

Public participation. In conformance with section 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

V. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2007–2 to consider the Postal Service Request referred to in the body of this order.
2. The Commission will act *en banc* in this proceeding.
3. Notices of intervention shall be filed no later than April 20, 2007.
4. Responses to the Service's request for consideration of its Request under rule 69 are due no later than April 20, 2007.
5. Comments on the Service's suggestion that suspension of this docket is a procedural option are due no later than April 20, 2007.
6. Answers to the Service's Conditional Motion for Waiver are due no later than April 20, 2007.
7. Comments on the appropriateness of authorizing settlement procedures in this proceeding are due no later than April 20, 2007.
8. Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.
9. The Secretary shall cause this Notice and Order to be published in the **Federal Register**.

Issued: April 10, 2007.

By the Commission.

Garry J. Sikora,

Acting Secretary.

[FR Doc. E7–7102 Filed 4–13–07; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF STATE

[Public Notice 5775]

Asia-Pacific Partnership on Clean Development and Climate; Notice of Grant Opportunity

The U.S. Department of State invites organizations interested in contributing to the Asia-Pacific Partnership's goals, through innovative public-private partnerships, to submit concept papers for consideration under the Annual Program Statement (APS) using *www.grants.gov.*

Background

Australia, China, India, Japan, Korea, and the United States have established the Asia-Pacific Partnership on Clean Development and Climate to accelerate the development and deployment of clean energy technologies in their countries. The Partner countries have decided to work together and with their private sectors on energy security, national air pollution reduction, and climate change in ways that promote sustainable economic growth and poverty reduction. The Partnership involves countries that account for about half of the world's population and more than half of the world's economy and energy use.

The Partnership focuses on voluntary practical measures taken by these six countries in the Asia-Pacific region to create new investment opportunities, build local capacity, and remove barriers to the introduction of clean, more efficient technologies. It brings together key experts from the public and private sectors.

As a part of the U.S. government's participation in the Asia-Pacific Partnership on Clean Development and Climate (APP), the Department of State (DOS) is soliciting Concept Papers from organizations interested in contributing to the Partnership's goals through innovative public-private partnerships. These goals include reducing greenhouse gas emissions; advancing sustainable economic growth; reducing poverty; creating new investment opportunities; building local capacity; and improving economic and energy security.

Prospective applicants may include a wide range of Partner country organizations, from non-governmental organizations (NGOs) to commercial firms. An organization may submit no more than four (4) Concept Papers total as lead grant recipient for the entire Concept Paper process.

The DOS has requested $26 million in Economic Support Funds (ESF) to fund Partnership activities in Fiscal Year 2007. Through this Announcement, the Department of State is soliciting proposals for activities to be undertaken in India. The Department of State is not soliciting proposals for activities to be undertaken in Australia, China, Japan, or Korea. To qualify for DOS funding under this program announcement, a proposal must demonstrate that the applicant and its partners are willing/

able to collectively contribute significant resources to the proposed program that are *at least equal to the level of resources sought from DOS.* Grants will be awarded in the range of $200,000–$2,000,000 (USD).

For more information about this grants opportunity, please go to: *www.grants.gov* and access funding opportunity number: S–OES–07–APS–0001 or e-mail *APP_US@state.gov*.

For more information about the Partnership, please visit: *http://www.asiapacificpartnership.org* or *http://www.state.gov/app.*

If you would like to be notified in advance of future grants opportunities under the Asia-Pacific Partnership, please e-mail your name, affiliation, phone number, and e-mail address to: *APP_US@state.gov*.

Additional Information

Document Type: Grants Notice.

Funding Opportunity Number: S–OES–07–APS–0001.

Opportunity Category: Discretionary.

Posted Date: April 06, 2007.

Original Closing Date for Applications: April 27, 2007.

Annual Program Statement Key Dates: April 27, 2007—Prospective applicants must submit Concept Papers using *www.grants.gov* by 5 p.m. Easter Standard Time.

May 29, 2007—DOS will send a Request for Proposal to applicants whose Concept Papers have been selected.

June 29, 2007—Prospective applicants must submit Proposals using *www.grants.gov* by 5 p.m. Eastern Standard Time.

Current Closing Date for Applications: April 27, 2007.

Annual Program Statement Key Dates: April 27, 2007—Prospective applicants must submit Concept Papers using *www.grants.gov* by 5 p.m. Eastern Standard Time.

May 29, 2007—DOS will send a Request for Proposal to applicants whose Concept Papers have been selected.

June 29, 2007—Prospective applicants must submit Proposals using *www.grants.gov* by 5 p.m. Eastern Standard Time.

Funding Instrument Type: Grant.

Category of Funding Activity: Environment, Energy and Climate Change.

Expected Number of Awards: 100.

Estimated Total Program Funding: $26,000,000.

Award Ceiling: $2,000,000.

Award Floor: $200,000.

Cost Sharing or Matching Requirement: Yes.

Dated: April 10, 2007.

Trigg Talley,

Office Director, Acting, Office of Global Change, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

[FR Doc. E7–7205 Filed 4–13–07; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 5776]

U.S. National Commission for UNESCO Notice of Open Teleconference Meeting

SUMMARY: The U.S. National Commission for UNESCO will meet via telephone conference on Tuesday, April 24, 2007, from 11:30 a.m. until 12:30 p.m. Eastern Time. The purpose of the teleconference meeting is to consider the recommendations of the Commission's Review Committee on the UNITWIN/UNESCO Chairs Program. The UNESCO Secretariat in Paris has asked to receive recommendations from member states before the end of April, thus this telephone conference is being convened on shorter notice than ordinary meetings of the Commission. The Review Committee was asked to review U.S. applications for the Chairs program, which seeks to foster cooperation between universities in different countries and to promote academic solidarity and the transfer of knowledge. The Commission also plans to discuss activities related to the U.S. National Committee for the Intergovernmental Oceanographic Commission, as well as, discuss applications submitted to join the Associated Schools Project Network—USA list. More information on the National Commission can be found at *http://www.state.gov/p/io/unesco.* The Commission will accept brief oral comments during a portion of this conference call. Members of the public who wish to present oral comments or to listen to the conference call must make arrangements with the Executive Secretariat of the National Commission by 12 p.m. on April 23, 2007. For more information or to arrange to participate in the teleconference meeting, contact Alex Zemek, Deputy Executive Director of the U.S. National Commission for UNESCO, Washington, DC 20037. Telephone: (202) 663–0026; Fax: (202) 663–0035; E-mail: *DCUNESCO@state.gov.*

Alex Zemek,

U.S. National Commission for UNESCO, Department of State.

[FR Doc. E7–7178 Filed 4–13–07; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for International Arrival Authorizations at Chicago O'Hare International Airport for the Winter 2007 Scheduling Season

AGENCY: Department of Transportation, FAA.

ACTION: Notice of submission deadline.

SUMMARY: The FAA announces May 3, 2007, as the deadline for submitting requests for the allocation of international Arrival Authorizations at Chicago O'Hare International Airport (ORD). The FAA deadline coincides with the submission deadline established by the International Air Transport Association (IATA) for the Winter 2007 Schedule Coordination Conference. The conference covers the period of October 28, 2007 through March 29, 2008. The FAA limits scheduled arrivals at ORD from 7 a.m. to 9 p.m., Central Time, Monday through Friday, and 12 p.m. to 9 p.m., on Sunday, based on runway capacity.

DATES: Requests for international Arrival Authorizations must be submitted no later than May 3, 2007.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, AGC–200, Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; facsimile: 202–267–7277; ARINC: DCAYAXD; or by e-mail to: *7-AWA-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Komal Jain, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: 202–267–3073.

Issued in Washington, DC on April 10, 2007.

Rebecca B. MacPherson,

Assistant Chief Counsel for Regulations.

[FR Doc. 07–1874 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a FAAP Grant Agreement Between the County of Miami-Dade and the Federal Aviation Administration for the Kendall Tamiami Executive Airport, Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties 7.742 acres at the Kendall Tamiami Executive Airport, Miami, FL from the conditions, reservations, and restrictions as contained in a FAAP agreement between the FAA and the County of Miami-Dade, dated June 4, 1965. The release of property will allow the County of Miami-Dade to dispose of the property for other than aeronautical purposes. The property is located in the South 35ft. of Section 16, Township 55 South, Range 39 East, Miami-Dade County, Florida; less the West 185ft. thereof and the South 35ft. of the West ¼ of Section 15, Township 55 South, Range 39 East, Miami-Dade County, Florida. The parcel is currently designated as non-aeronautical use. The property will be disposed of for the purpose of constructing the realignment of proposed SW. 157th Ave. The fair market value of the property has been determined by appraisal to be $4,350,000. The airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project or used for operation and maintenance of the Kendall Tamiami Executive Airport.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Miami Dade Aviation Department Offices and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATES: Comments must be submitted by May 16, 2007.

ADDRESSES: Documents are available for review at the Miami-Dade Aviation Department Offices, 4200 NW., 36th St., Miami, FL 33122, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Ms. Krystal G. Hudson, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Ms. Krystal G. Hudson, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 07–1810 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations, and Restrictions of a FAAP Grant Agreement Between the County of Miami-Dade and the Federal Aviation Administration for the Kendall Tamiami Executive Airport, Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties 3,063s.f. (0.070acre) at the Kendall Tamiami Executive Airport, Miami, FL from the conditions, reservations, and restrictions as contained in a FAAP agreement between the FAA and the County of Miami-Dade, dated June 4, 1965. The release of property will allow the County of Miami-Dade to dispose of the property for other than aeronautical purposes. The property is located in the Northeast ¼ of Section 15, Township 55 South, Range 39 East, Miami-Dade County, Florida. The parcel is currently designated as non-aeronautical use. The property will be disposed of for the purpose of constructing a new right turn lane along the sought side of SW. 120th Street at its intersection with SW. 137th Ave. The fair market value of the property has been determined by appraisal to be $75,000. The airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project or used for operation and maintenance of the Kendall Miami Executive Airport.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Miami Dade Aviation Department Offices and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATES: Comments must be submitted by May 16, 2007.

ADDRESSES: Documents are available for review at the Miami-Dade Aviation Department Offices, 4200 NW. 36th St., Miami, FL 33122, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Ms. Krystal G. Hudson, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Ms. Krystal G. Hudson, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 07–1811 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice and Request for Comments

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on February 6, 2007 (72 FR 5493).

DATES: Comments must be submitted on or before May 16, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Gina Christodoulou, Office of Support Systems Staff, RAD–

43, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 6, 2007, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 72 FR 5493.

FRA received three comments after issuing this notice. All three letters expressed support for the proposed study/collection of information. The first letter was sent to FRA by Dr. John Draper of the National Suicide Prevention Lifeline (NSPL). In his letter, Dr. Draper remarks:

As Director of the federally-funded National Suicide Prevention Line (NSPL), I am aware of the American Association of Suicidology's (AAS) application to the federal Office of Management and Budget seeking measures to enhance accurate reporting and identify causes of railway-related suicides. I am writing today to acknowledger their important, collaborative role in promoting and supporting the Lifeline and its network of 120 crisis centers across the nation and the potential value that the Lifeline sees in the proposed collection of data.

To the extent that AAS is successful in obtaining federal authorization to collect this data, the NSPL could more effectively collaborate with AAS and railway authorities to prevent railway suicides.

Dr. Draper goes on to outline what such a collection of information as the proposed study will achieve. He states:

First, the prevalence of suicides in railway systems must be accurately documented to: (a) Alert railway administrators to the full scope of this public health problem affecting their business operations and interests; and (b) Provide a prevalence base-line to enable meaningful, comparative outcome measures for any suicide prevention efforts implemented to address the problem (*e.g.*, ''did it work?''). This information will assist NSPL/AAS/Railway collaborations in assessing where NSPL services and promotions efforts might be most effectively located in the vicinity of railway systems, and the degree to which such promotions/service efforts, once implemented, may have an impact on railway suicides.

Second, determining causes of railway suicides might assist the NSPL in more effectively targeting suicide prevention messages and services to address the identified risk factors. For example, if specific demographic groups in geographic areas near railways could be determined to have a significantly greater risk, or certain identifiable behavioral factors could be associated with better predicting who might be planning a railway suicide, the NSPL and AAS could work together with railway administrators to enhance awareness of the Lifeline number for such ''at risk groups'' showing ''warning signs.''

* * * If AAS is provided with authorization to collect the valuable information noted above, the NSPL can count on AAS for further collaborations towards applying this information in efforts that could more effectively prevent suicides in railway systems.

The second letter was sent to FRA by Mr. John Reed of the Suicide Prevention Action Network (SPAN). In his letter, Mr. Reed observes:

SPAN USA supports Phase II of the Federal Railroad Administration (FRA) project to reduce suicides on the rail system. Currently, there is no reliable source for determining how many of the approximately 500 deaths that occur on rail property each year are by suicide because they are not reported consistently or to one central source. It is believed that suicide on the railways is under-reported—as is suicide in general. Without an accurate accounting, there is way to know the magnitude of suicide on railroad-owned property, or any way to track the effectiveness of prevention strategies. SPAN USA supports the current FRA project so that the information necessary to design and implement suicide prevention measures for the nation's rail system in order to reduce suicide deaths will be available.

SPAN USA's National Scientific Advisory Committee supports psychological autopsies as an accepted, empirically-based research method for obtaining information about those who die by suicide. These autopsies are particularly useful in railway deaths because many such suicides are witnessed, and often the individual completing the suicide does not leave a note. Through the psychological autopsies which the American Association of Suicidology (AAS) intends to carry out, much needed information can be gained in order to create an analysis of suicide incidents involving the 70 individuals who will be autopsied.

SPAN USA supports AAS and the Association of American Railroads' (AAR) continued efforts on this project. AAS is dedicated to the understanding and prevention of suicide, and has experience conducting and analyzing psychological autopsies. In addition, AAR has been a strong partner in SPAN USA's efforts to open minds, change policy and save lives with respect to our suicide prevention activities.

The third letter was sent to FRA by Dr. Daniel Reidenberg of Suicide Awareness Voices of Education. In his letter, Dr. Reidenberg notes:

I am very familiar with the American Association of Suicidology and their substantial credibility and work in the field and study of suicide * * * We have a serious problem of national importance that must continue to be addressed through research, scientific study, public awareness and education. Much of what we have learned about suicide comes from psychological autopsies, from which come newly developed assessment tools and techniques, as well as prevention efforts. All of this not only will save lives, but reduce the tremendous economic impact of suicides by rail or other forms of major public transportation.

* * * I fully support the work of the AAS and this particular project. There is no better organization more suited to conduct this type of work and there is no more time for delay. We desperately need this work to be conducted, because any life lost to suicide is one too many.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden, and are being submitted for clearance by OMB as required by the PRA.

Title: Causal Analysis and Countermeasures to Reduce Rail-Related Suicides.

OMB Control Number: 2130–NEW.

Type of Request: New collection.

Affected Public: Railroad personnel, members of the public, affected family and friends.

Abstract: Pedestrian trespassing on railroad property resulting in serious injury or death is one of the two most serious safety problems—the second being grade crossing collisions—facing the railroad industry and its regulators not only in the United States but also in other countries. It is widely believed in the United States that the reported prevalence and incidence of railway suicide vastly under-represents the nature and extent of the problem. There is no central reporting system within the railroad industry or suicide prevention

field that provides verifiable information about how many trespass deaths are accidental versus intentional. Therefore, there are no verifiable measures of the extent of rail-related suicides in this country. While railroad companies must report trespass incidents resulting in serious injury or death to the U.S. Federal Railroad Administration (FRA), injuries or deaths that are ruled by a medical examiner or coroner to be intentional are not reported. Preliminary figures from 2006 indicate there were approximately 500 deaths and 360 injuries reported to FRA—an increase of 100 incidents over the previous year—but suicides are not represented in these numbers. Unverifiable estimates from a number of sources range from 150 to more than 300 suicides per year on the U.S. railways. Like any other incident on the rail system, a suicide on the tracks results in equipment and facility damage, delays to train schedules, and trauma to railroad personnel involved in the incidents. As a result, FRA last year awarded a grant for the first phase of a five-year project to reduce suicides on the rail system to the Railroad Research Foundation (part of the Association of American Railroads) and its subcontractor, the American Association of Suicidology (AAS). In the course of the five-year project, the research project's goals include: (i) A prevalence assessment to determine verifiable numbers of suicides on the rail system; (ii) Development of a standardized reporting tool for industry use; (iii) A causal analysis and root cause analysis of suicide incidents that occur during the grant cycle; and (iv) Design and implementation of suicide prevention measures for the nation's rail system to reduce suicide injuries and deaths. AAS is also receiving a grant from the Federal Transit Administration (FTA) to study suicides on commuter rail lines throughout the country. Consequently, AAS has expanded its study to include commuter lines as well, and will be using the same collection instruments once they are approved by the Office of Management and Budget.

This collection of information pertains to Phase II of the project, the causal analysis. In order to understand as much as possible about people who intend to die by placing themselves in the path of a train and, therefore, to design prevention strategies, AAS intends to conduct 70 psychological autopsies over the course of two years on people who die by rail-related suicide. Psychological autopsy is a recognized and accepted method for obtaining information about physical, emotional, and circumstantial contributors to a person's death. The 70 psychological autopsies proposed for the FRA and FTA projects will involve interviews with witnesses to these incidents—rail and commuter personnel and members of the public—as well as family members, friends, employers, and co-workers. After conducting a root cause analysis of this data, AAS will then work with the industry to design, pilot test, and implement effective countermeasures with the goal of reducing deaths, injuries, and psychological trauma.

Form Number(s): FRA F 6180.125A; FRA F 6180.125B.

Annual Estimated Burden Hours: 537 hours.

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on April 10, 2007.

D.J. Stadtler,

Director, Office of Budget, Federal Railroad Administration.

[FR Doc. E7–7191 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 seq.), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 18, 2007, and comments were due by March 19, 2007. No comments were received.

DATES: Comments must be submitted on or before May 16, 2007.

FOR FURTHER INFORMATION CONTACT: Richard Walker, Maritime Administration, MAR–810, 400 7th Street, SW., Washington, DC 20590. Telephone: (202) 366–3581, fax: (202) 366–6988; or e-mail: *richard.walker@dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Marine Port and Terminal Infrastructure Data.

OMB Control No.: 2133–New.

Type of Request: New information collection.

Affected Public: U.S. Ports and Terminals.

Forms: Form MA–1041, MA–1042 and MA–1043.

Abstract: This biennial survey will assist MARAD in determining the number and type of facilities available for moving cargo. Emphasis will be on throughput capacity and the adequacy of the number and type of terminals available to move cargo efficiently through the U.S. global freight transportation system. The survey will also provide an overview of ownership of marine terminals in the United States. The survey results will serve as an indicator of the type of investment funds needed to meet future infrastructure requirements.

Annual Estimated Burden Hours: 872 Hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the

proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect, if OMB receives it within 30 days of publication.

Issued in Washington, DC, on April 4, 2007.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–7153 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2007–27875]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD) intention to request the Office of Management and Budget's (OMB) approval for a new information collection related to the availability of mariners.

DATES: Comments should be submitted on or before June 15, 2007.

FOR FURTHER INFORMATION CONTACT: Jean McKeever, Maritime Administration, MAR–700, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5737, fax: (202) 366–7901; or e-mail: *jean.mckeever@dot.gov* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION: *Title of Collection:* MARAD Maritime Operator Survey Concerning Mariner Availability.

Type of Request: New Collection.

OMB Control Number: 2133—New.

Form Numbers: MA–1048.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: Part of the stated statutory policy of the Merchant Marine Act, 1936, is to foster the development and maintenance of an adequate U.S.-flag merchant marine manned with trained and efficient citizen personnel. In order to successfully meet this mandate, MARAD must determine whether a current or projected shortage of mariners exists and if there is an operational or business impact on the merchant marine. MARAD believe that a brief preliminary survey is necessary at this time because it has received an abundance of anecdotal information indicating that there is a serious existing and projected mariner shortage in different market sectors. If the preliminary survey indicates that there is a projected shortage that appears to be more than short-term, MARAD will follow-up with a more detailed survey to analyze the shortage and ascertain the best means to address it.

Need and Use of the Information: The new data collection will rely on a written survey and telephone follow-up. The survey will request the respondents to provide information such as: (1) Future plans to hire mariners; (2) past difficulty in hiring mariners; (3) expectations of future difficulty in hiring mariners; (4) impact on business operations and plans; and (5) suggestions for solutions.

Description of Respondents: The target population for the survey will be approximately 100 vessel operating companies representing different sectors of the U.S. maritime industry.

Annual Responses: 100.

Annual Burden: 33.34 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit*. Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov*.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.dms.dot.gov*.

(Authority: 49 CFR 1.66)

Dated: April 11, 2007.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E7–7154 Filed 4–13–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 11, 2007.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 16, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–xxxx.

Type of Review: New Collection.

Title: EFTPS Individual Enrollment with Third Party Authorization Form.

Form: 9783T.

Description: The information derived from Form 9783T will allow individual taxpayers to authorize a Third Party to pay their federal taxes on their behalf using the Electronic Federal Tax Payment System (EFTPS).

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 167 hours.

OMB Number: 1545–xxxx.

Type of Review: New Collection.

Title: Revenue Procedure 2007–x.

Description: The respondents are nonprofit organizations seeking recognition of exemption under certain parts of § 501(c) of the Internal Revenue Code. These organizations must submit a letter application. We need this information to determine whether the organization meets the legal requirements for tax-exempt status. In addition, the information will be used to

help the Service delete certain information from the text of an adverse determination letter or ruling before it is made available for public inspection, as required under § 6110.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 200 hours.

OMB Number: 1545–0008.

Type of Review: Extension.

Title: Wage and Tax Statements W–2/W–3 series.

Form: W–2, W–3.

Description: Employers report income and withholding on Form W–2. Forms W–2AS, W–2GU and W–2VI are the U.S. possessions version of Form W–2. The Form W–3 series is used to transmit Forms W–2 to SSA. Forms W–2c, W–3c and W–3cPR are used to correct previously filed Forms W–2, W–3 and W–3PR. Individuals use Form W–2 to prepare their income tax return.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1 hour.

Clearance Officer: Glenn P. Kirkland, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–7194 Filed 4–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Financial Literacy and Education Commission

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Financial Literacy and Education Commission, established by the Financial Literacy and Education Improvement Act (Title V of the Fair and Accurate Credit Transactions Act of 2003).

DATES: The eleventh meeting of the Financial Literacy and Education Commission will be held on Tuesday, May 15, 2007, beginning at 10 a.m.

ADDRESSES: The Financial Literacy and Education Commission meeting will be held in the Cash Room at the Department of the Treasury, located at 1500 Pennsylvania Ave., NW., Washington, DC. To be admitted to the Treasury building, an attendee must RSVP by providing his or her name, organization, phone number, date of birth, Social Security number and country of citizenship to the Department of the Treasury by e-mail at: *FLECrsvp@do.treas.gov*, or by telephone at: (202) 622–7881 (not a toll-free number) not later than 5 p.m. on Wednesday, May 9, 2007.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Tom Kurek by e-mail at: *thomas.kurek@do.treas.gov* or by telephone at (202) 622–5770 (not a toll free number). Additional information regarding the Financial Literacy and Education Commission and the Department of the Treasury's Office of Financial Education may be obtained through the Office of Financial Education's Web site at: *http://www.treas.gov/financialeducation.*

SUPPLEMENTARY INFORMATION: The Financial Literacy and Education Improvement Act, which is Title V of the Fair and Accurate Credit Transactions Act of 2003 (the ''FACT Act'') (Pub. L. 108–159), established the Financial Literacy and Education Commission (the ''Commission'') to improve financial literacy and education of persons in the United States. The Commission is composed of the Secretary of the Treasury and the head of the Office of the Comptroller of the Currency; the Office of Thrift Supervision; the Federal Reserve; the Federal Deposit Insurance Corporation; the National Credit Union Administration; the Securities and Exchange Commission; the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs; the Federal Trade Commission; the General Services Administration; the Small Business Administration; the Social Security Administration; the Commodity Futures Trading Commission; and the Office of Personnel Management. The Commission is required to hold meetings that are open to the public every four months, with its first meeting occurring within 60 days of the enactment of the FACT Act. The FACT Act was enacted on December 4, 2003.

The eleventh meeting of the Commission, which will be open to the public, will be held in the Cash Room at the Department of the Treasury, located at 1500 Pennsylvania Ave., NW., Washington, DC. The room will accommodate 80 members of the public. Seating is available on a first-come basis. Participation in the discussion at the meeting will be limited to Commission members, their staffs, and special guest presenters.

Dated: April 4, 2007.

Dan Iannicola, Jr.,

Deputy Assistant Secretary for Financial Education.

[FR Doc. E7–7195 Filed 4–13–07; 8:45 am]

BILLING CODE 4811–42–P

Corrections

Federal Register
Vol. 72, No. 72
Monday, April 16, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2007–OS–0033]

U.S. Court of Appeals for the Armed Forces Proposed Rules of Changes

Correction

In notice document 07–1789 beginning on page 18210 in the issue of Wednesday, April 11, 2007, make the following correction:

On page 18210, in the second column, under **DATES**, in the last line, ''May 2007'' should read ''May 11, 2007''.

[FR Doc. C7–1789 Filed 4–13–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Navy

[USD–2007–0024]

Privacy Act of 1974 System of Records

Correction

In notice document 07–1793 beginning on page 18216 in the issue of Wednesday, April 11, 2007, make the following correction:

On page 18216, in the second column, under **DATES**, in the second line, ''May 2007'' should read ''May 11, 2007''.

[FR Doc. C7–1793 Filed 4–13–07; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

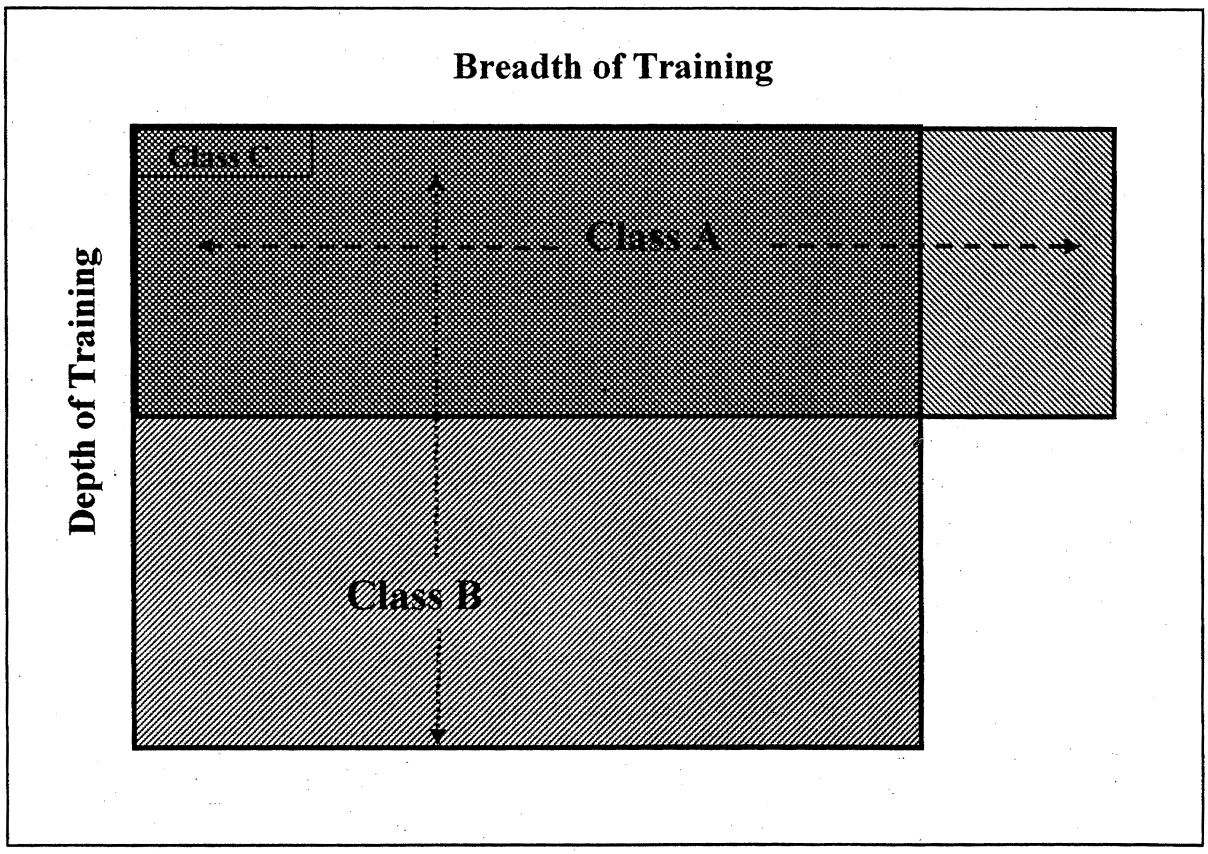
[FRL-8295-9]

Draft Operator Training Grant Guidelines for States; Solid Waste Disposal Act, Subtitle I, as Amended by Title XV, Subtitle B of the Energy Policy Act of 2005

Correction

In notice document E7–6616 beginning on page 17896 in the issue of Tuesday, April 10, 2007, make the following correction:

On page 17901, the photographed figure at the bottom of the page is reprinted below:



[FR Doc. Z7–6616 Filed 4–13–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
April 16, 2007

Part II

Department of Housing and Urban Development

24 CFR Part 115

Certification and Funding of State and Local Fair Housing Enforcement Agencies; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 115

[Docket No. FR–4748–F–02]

RIN 2529–AA90

Certification and Funding of State and Local Fair Housing Enforcement Agencies

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises and updates HUD's regulation implementing section 810(f) of the federal Fair Housing Act. This regulation establishes the criteria for certification of state and local fair housing laws that are substantially equivalent to the federal Fair Housing Act, as well as for decertification of state and local fair housing laws that are deemed no longer substantially equivalent. This final rule also revises the funding criteria for agencies participating in the Fair Housing Assistance Program (FHAP).

DATES: *Effective Date:* May 16, 2007.

FOR FURTHER INFORMATION CONTACT: Bryan Greene, Deputy Assistant Secretary for Enforcement and Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5204, Washington, DC 20410–2000; telephone (202) 402–7078 (this is not a toll-free number). Hearing- or speech-impaired persons may contact the FHAP Division by calling (800) 290–1617, or the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 2005, HUD published a proposed rule (70 FR 28748) for public comment that would clarify numerous issues related to substantial equivalency certification and the FHAP. Under the FHAP, a state or local agency applies for substantial equivalency certification and the Department determines whether the agency enforces a law that provides substantive rights, procedures, remedies, and judicial review provisions that are substantially equivalent to the federal Fair Housing Act. The FHAP provides support for complaint processing, training, technical assistance, education and outreach, data and information systems, and other activities that will further fair housing within the state or local agency's jurisdiction.

The proposed rule provided a comprehensive revision of 24 CFR part 115 to provide greater clarity and guidance to FHAP agencies. Among the proposed revisions were new definitions, revised and additional performance standards, and timeframes. The proposed rule also added procedures for renewal of certification and procedures for requests after withdrawal. HUD also proposed the addition of § 115.309, titled FHAP and the First Amendment, which provided that no funding made available under the FHAP may be used to investigate or prosecute any activity that may be protected by the First Amendment of the United States Constitution. Finally, HUD added § 115.310, which provided requirements for fair housing testing activities funded under the FHAP. A detailed description of the proposed rule can be found at 70 FR 28748–28751.

In addition to inviting comments on the proposed rule generally, HUD sought comment from the public on three issues in particular. First, HUD requested that FHAP agencies of varying sizes provide insight into what would constitute reasonable complaint numbers. Second, HUD sought comment on the appropriateness of enumerating timeframes by which interim and certified agencies must comply in sending out letters notifying parties of a failure to meet the 100-day (completion of investigation) or the one-year (final administrative disposition) requirements. Third, HUD invited comments from the public on whether 100 cases is still a reasonable number an agency must acceptably process in order to obtain 10 percent of the agency's total FHAP payment amount. See section III of this preamble for a summary of the issues raised by the public commenters and HUD's responses.

II. This Final Rule

This rule follows publication of the May 18, 2005, proposed rule and takes into consideration the public comments received on the proposed rule. HUD received five comments related to the May 18, 2005, proposed rule. After careful review of the public comments, HUD has made four noteworthy changes to the proposed rule.

First, this final rule adds a timeframe for FHAP agencies to send 100-day letters. Performance Standard 1, at § 115.206, requires that an agency unable to complete investigative activities with respect to a complaint within 100 days must send written notification to the parties within 110 days of the filing of a complaint.

Second, this rule revises § 115.210 of the proposed rule to clarify that HUD may suspend all types of funding (not just complaint processing funds) during suspension and withdrawal because of FHAP agency performance deficiencies.

Third, HUD proposed to remove § 115.305, the special enforcement effort (SEE) fund provisions, from the regulations but has retained the provision in this final rule. In addition to retaining the current regulatory provision, this final rule includes examples of meritorious mention, which is one of the criteria for obtaining SEE funds.

Fourth, in this final rule, HUD has further clarified the requirement that a FHAP agency spend at least 20 percent of its total annual budget on fair housing activities. Section 115.307(a)(5) of this final rule clarifies that this requirement applies only to FHAP agencies that enforce antidiscrimination laws other than a fair housing law.

III. Discussion of Public Comments on the May 18, 2005, Proposed Rule

The public comment period on the May 18, 2005, proposed rule ended on July 18, 2005. HUD received five comments. Commenters included one private fair housing organization, two current FHAP agencies, one local community affairs department, and one local housing authority. The summary of comments that follows presents the major issues and questions raised by the public comments on the proposed rule. HUD's response follows each comment.

Comment: One commenter wrote that, although some provisions strengthen FHAP agencies, the majority create unnecessary infringements that exceed HUD's authority and are better left to state agencies.

HUD Response. The commenter did not include any specific examples of provisions that create unnecessary infringements that exceed HUD's authority. Therefore, HUD cannot respond because of the lack of specificity. The authority to make the revisions contained in the proposed rule is set forth at 42 U.S.C. 3610(f) and 42 U.S.C. 3608(a).

Comment: The same commenter recommended that no agency remain certified if it processes fewer than 20 complaints in any given year after its first year of operation.

HUD Response. After careful consideration, HUD has determined that it is inappropriate to identify in a regulation a specific number of housing discrimination complaints that agencies must process. A one-size-fits-all approach is impracticable because, among other considerations, FHAP

agencies serve populations of varying sizes. An agency-by-agency analysis is a more reasonable approach. As provided in the proposed rule, this final rule identifies factors HUD will consider in determining what constitutes a reasonable number of housing discrimination complaints that a given agency should receive and process. Those factors include, but are not limited to, the jurisdiction's population; the length of time the agency has participated in the FHAP; and the number of housing discrimination complaints that the agency has received and processed in the past. If an agency fails to receive and process a reasonable number of housing discrimination complaints during a year of FHAP participation, given education and outreach efforts conducted and receipts of complaints, the final rule gives the Office of Fair Housing and Equal Opportunity (FHEO) regional director the authority to put the agency on a Performance Improvement Plan (PIP). The PIP will set forth the number of housing discrimination complaints that the agency must receive and process during subsequent years of FHAP participation.

Comment: Another commenter wrote that the determination of a reasonable number of complaints be a joint determination by HUD and the FHAP agency.

HUD Response. As noted in response to a similar comment, the determination of what constitutes a reasonable number of housing discrimination cases will be made on an agency-by-agency basis. The final rule identifies factors that HUD will consider in making such a determination for a given agency. This commenter also recommended that the determination be based on the historical number of complaints that the FHAP agency has processed. This is one of the factors HUD has enumerated in this final rule.

Comment: One commenter recommended that HUD establish a 10-day timeframe for sending out 100-day letters.

HUD Response. HUD agrees and has amended Performance Standard 1 in § 115.206 of the proposed regulation to add paragraph (e)(1)(vi), which sets forth a timeframe within which FHAP agencies must issue 100-day letters. HUD's Title VIII Complaint Intake, Investigation, and Conciliation Handbook requires HUD to prepare case status reports for a complaint at the 85th day after the complaint is filed. The completion of a case status report triggers HUD's automated complaint processing system to generate 100-day letters. Supervisors then review the case status report, followed by the issuance of the 100-day letter. Using HUD's procedure as a guide, Performance Standard 1, in § 115.206(e)(1)(vi) establishes that 100-day letters be issued within 110 days of the filing of the complaint.

Comment: A commenter wrote that granting authority to regional FHEO directors may be an improvement; however, the authority should be accompanied by consistent national guidance about performance assessment requirements and standards to avoid inconsistent outcomes.

HUD Response. The proposed regulation and the final regulation are clear, stating that HUD may utilize the performance deficiency procedures at any time that the agency does not meet one or more of the ten performance standards enumerated in § 115.206. The Department believes that these enumerated standards compose the consistent national guidance sought by the commenter. The final regulation further states that the performance deficiency procedures may be applied to agencies with either interim certification or certification. At this time, HUD will not set forth further guidance regarding deficiency procedures. HUD will, however, monitor the implementation of the performance standards and consider developing additional guidance on this issue as necessary.

Comment: Another commenter recommended that HUD provide an appeal process so that an agency that has been placed on a PIP can appeal the decision of the FHEO regional director if they have a basis to believe that they were wrongly placed on a performance improvement plan (PIP).

HUD Response. After careful consideration, HUD has determined that it will not provide in the regulation an appeal process for an agency placed on a PIP. HUD believes that an agency's interests are sufficiently protected within the performance deficiency process set forth in the final rule, which provides several opportunities for an under-performing agency to avoid involuntary withdrawal from the program. The fact that an agency has been placed on a PIP will not, in and of itself, result in an agency's inability to participate in the FHAP. If an agency fails to improve after being placed on a PIP, HUD may move to suspend the agency. If suspension is proposed, an agency is given an opportunity to respond within 30 days of receipt of the suspension notification. Suspension also does not result in an agency's inability to participate in the FHAP. If an agency fails to improve after a period of suspension, the Assistant Secretary for Fair Housing and Equal Opportunity may propose withdrawal. If withdrawal is proposed, the agency is given the opportunity to provide information and documentation that establishes that the administration of its law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115.

Comment: A commenter suggested that HUD add mandated, on-site performance assessments at least every 24 months and a requirement that FHEO seek public input before certifying an agency. The commenter also recommended that HUD be required to investigate complaints from the public about performance.

HUD Response. The language of the final rule regarding on-site assessments, which in this respect is unchanged from the proposed rule, provides HUD with all of the authority necessary to accomplish its oversight responsibilities, while at the same time allowing HUD the flexibility to match available resources to identified priorities.

With regard to the second issue identified by the commenter, the final rule indicates, as did the proposed rule, that HUD will seek public input before certifying an agency. Section 115.102(b) states:

> On an annual basis, the Assistant Secretary may publish in the **Federal Register** a notice that identifies all agencies that have received interim certification during the prior year. The notice will invite the public to comment on the state and local laws of the new interim agencies, as well as on the performance of the agencies in enforcing their laws.

With regard to the third issue, while the final rule does not require HUD to investigate public complaints about the performance of an agency, § 115.206 does require that ''[A]ll [public] comments will be considered before a final decision on certification is made.'' Moreover, complaints about a FHAP agency will be considered and examined as part of an agency's performance assessment.

Comment: Another commenter recommended that HUD not recognize prohibited bases in any manner because these are state, county, and city rules that are ''completely foreign'' to HUD.

HUD Response. The proposed rule did not recognize any prohibited bases that have not already been recognized in the federal Fair Housing Act. Rather, § 115.204 simply sets forth the long-standing HUD policy that the inclusion of additional prohibited bases in a state or local law does not preclude HUD from determining that a given law is substantially equivalent to the Fair Housing Act. While a state or local law

that has additional prohibited bases may be found substantially equivalent, it is important to note that HUD has not, and will not, pay FHAP agencies for cases that are not cognizable under the federal Fair Housing Act.

Comment: A commenter recommended that HUD not change current HUD standards for administrative closures. This commenter also recommended that no more than 12 percent of cases be closed administratively.

HUD Response. Because administrative closure standards for FHAP agencies do not exist under the current regulation, HUD is in the process of developing such standards and will provide further guidance. Section 115.206 of this final rule adds Performance Standard 2, which requires that administrative closures be utilized only in appropriate and limited circumstances. In response to the second part of the comment, HUD believes it is inappropriate to mandate an across-the-board cap on administrative closures, as FHAP agencies often have little control over circumstances that may warrant administrative closures. HUD's objective in developing administrative closure guidance is not to prevent the use of administrative closures in cases in which they are warranted, but rather to prevent their use in cases where a finding on the merits would be more appropriate.

Comment: The same commenter recommended that the final rule require that FHAP agencies follow the procedures and standards for investigation set forth in the Title VIII Handbook (HUD Handbook 8024–1).

HUD Response. The Fair Housing Act, at § 810(f)(3)(A), states that the Secretary of HUD ''may certify an agency * * * only if the Secretary determines that * * * the substantive rights protected by such agency * * *; the procedures followed by such agency; the remedies available to such agency; and the availability of judicial review of such agency's action * * * are *substantially* equivalent to those created by and under this title'' (emphasis added). The Fair Housing Act does not require an agency's law and procedures to be identical to the Fair Housing Act. Although HUD makes the Title VIII Handbook available to FHAP agencies and recommends that it be utilized in the processing of dual-filed housing discrimination complaints, HUD has stopped short of requiring its usage. The Title VIII Handbook is based on the Fair Housing Act and its implementing regulations. Because substantially equivalent state and local laws may deviate from the Fair Housing Act to a certain extent, certain aspects of the Title VIII Handbook might prove impracticable for some FHAP agencies.

Comment: A commenter recommended that the complaint be closed and the complainant advised to proceed through the courts if the complainant rejects an offer by the respondent to conciliation that represents full relief.

HUD Response. HUD did not accept this suggestion. The goal of conciliation is to reach a resolution of a complaint that is mutually acceptable to all parties, including the complainant, the respondent, and the FHAP agency. A conciliator may educate parties about settlement and the realities of a case. However, a conciliator must never threaten, or appear to threaten, a party with adverse consequences for failing to conciliate a complaint. In addition, a FHAP agency must never close a complaint and advise a complainant to proceed to court if a complainant rejects a respondent's offer during conciliation, even if the FHAP agency believes the offer represents full relief. Instead, if either party rejects an offer by the other party, the FHAP agency should proceed with its appropriate investigation and disposition of the complaint.

Comment: A commenter stated that, if there is a disagreement on the determination issued by the FHAP agency, HUD should pay the FHAP agency for substantial work done and reactivate the complaint for HUD's investigation.

HUD Response. If HUD disagrees with the determination, the government technical representative (GTR) may deny payment to the agency for the case, or return the case to the agency for additional work. All cases in which HUD has denied payment will be considered as factors that affect the continued interim certification and certification.

Whenever complainants or respondents disagree with the determination, they are bound by the FHAP agency's procedures. HUD has no authority to reactivate a case or reverse a decision once the FHAP agency has rendered a determination.

Comment: A commenter recommended that HUD move immediately to withdraw certification if a statutory change or judicial action ''limits the effectiveness of the law'' rather than wait to determine if the law is going to be changed and let cases be processed by the FHAP agency during the meantime.

HUD Response. In most cases, HUD will not immediately withdraw certification after learning that a change to the law impacts substantial equivalence. Rather than proceeding directly to withdrawal, HUD will proceed with the progressive scheme identified in § 115.211 of the proposed rule and this final rule. It is important to note, however, that at each stage of the progressive scheme, HUD may decline to refer some or all complaints to the agency, and elect not to provide payments for complaints to the agency, as provided in § 115.211. Moreover, it is important to note that a change limiting the effectiveness of an agency's law may not necessarily impair its ability to process all types of housing discrimination complaints.

Comment: The same commenter wrote that partnerships with private fair housing organizations, including qualified fair housing organizations, be added to the list of proper partnership funds usage.

HUD Response. HUD believes that the language of the proposed rule sufficiently addressed this concern. Section 115.304(d) states, ''[s]ome examples of proper P fund usage include, but are not limited to * * * contracting with qualified organizations to conduct fair housing testing in appropriate cases * * *.'' The language in this final rule is unchanged from that of the proposed rule.

Comment: A commenter suggested that HUD add a provision that states that agencies under a PIP, suspension or withdrawal status are not eligible for Partnership ''P'' funding.

HUD Response. After considering this comment, HUD revised § 115.210. The section previously indicated that HUD may suspend only complaint processing funds during a period of suspension and/or withdrawal. Section 115.210 in this final rule is revised to state that HUD may suspend all types of funding under the FHAP during a period of suspension and withdrawal.

Comment: A commenter recommended that HUD reinstate SEE (Special Enforcement Effort) funding.

HUD Response. After considering this comment, HUD has decided to retain SEE funds in this final rule. It is important to recognize, however, that identifying funding in the final regulation does not guarantee that it will be available to FHAP agencies, since funding is subject to the annual congressional appropriations process.

In reincorporating SEE funds at § 115.305, HUD has added examples to clarify the current regulation. This final rule more fully defines what is meant by the meritorious mention criteria (which is one of the criteria for obtaining SEE funds identified in the regulation).

Comment: A commenter suggested that HUD remove the deduction provision or change it to specify that training funds will be deducted if the agency does not participate in HUD-approved training.

HUD Response. HUD agrees with this commenter and has revised § 115.306(b) of the final rule to state, ''* * * [i]f the agency does not participate in mandatory HUD-approved or HUD-sponsored training, training funds will be deducted from the agency's overall training amount.''

Comment: Several commenters noted that funding for other agency components is often beyond a FHAP agency's control. The commenters suggested that if an agency performs adequately, it should not matter what the percentage of its budget is for fair housing.

HUD Response. It is important to HUD that a substantially equivalent state or local agency demonstrate a commitment to fair housing enforcement by devoting financial resources to its fair housing program and that those resources be comparable to amounts devoted to the enforcement of other antidiscrimination laws. Therefore, HUD will not eliminate the 20 percent requirement. HUD has, however, revised § 115.306(a)(5) to further clarify that this requirement applies only when an agency enforces antidiscrimination laws other than a fair housing law.

Comment: A commenter wrote that HUD should not, and does not, fund local agencies to enforce HUD's fair housing responsibilities and suggested that the funds would be better used for the operating fund.

HUD Response. Under section 810(f) of the Fair Housing Act, 42 U.S.C. 3610(f) (''the Act''), the Secretary of HUD is required to refer housing discrimination complaints to state and local agencies that administer fair housing laws certified as substantially equivalent to the Act. The Secretary is further authorized by § 817 of the Act, 42 U.S.C. 3616, to reimburse such agencies for services rendered in assisting HUD's enforcement of the Act.

Comment: A commenter wrote that First Amendment provisions should not be incorporated into this rule because some agencies will have different state constitutional provisions.

HUD Response. The provision at § 115.310 is unchanged in this final rule. The purpose of FHAP is to provide assistance and reimbursement to certified state and local fair housing enforcement agencies. The intent of this funding program is to build a coordinated intergovernmental enforcement effort to further fair housing, within constitutional limitations. HUD will not accept for filing any housing discrimination complaint in which the alleged discriminatory acts are protected by the First Amendment to the Constitution of the United States. This necessarily means that such complaints will not be dual-filed, and concomitantly, that FHAP agencies cannot and will not be reimbursed by HUD for any work related to the processing, investigation, or enforcement of such complaints.

Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2529–0005. This rule does not revise these information collection requirements. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This final rule does not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Environmental Impact

This final rule involves a policy document that sets out enforcement procedures and provides for fair housing enforcement assistance. Accordingly, under 24 CFR 50.19(c)(3), this final rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321).

Impact on Small Entities

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule revises and makes clarifying changes related to substantial equivalency certification and the FHAP. Specifically, this rule is limited to providing clear timeframes, procedures, and concise explanations to assist FHAP agencies in complying with the regulations and successfully administering their agencies. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 14.401.

List of Subjects in 24 CFR Part 115

Administrative practice and procedure, Aged, Fair housing, Grant programs—housing and community development, Individuals with disabilities, Intergovernmental relations, Mortgages, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, HUD revises 24 CFR part 115 to read as follows:

PART 115—CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES

Subpart A—General

Sec.
115.100 Definitions.
115.101 Program administration.
115.102 Public notices.

Subpart B—Certification of Substantially Equivalent Agencies

115.200 Purpose.
115.201 The two phases of substantial equivalency certification.
115.202 Request for interim certification.
115.203 Interim certification procedures.
115.204 Criteria for adequacy of law.
115.205 Certification procedures.
115.206 Performance assessments; Performance standards.
115.207 Consequences of interim certification and certification.
115.208 Procedures for renewal of certification.
115.209 Technical assistance.
115.210 Performance deficiency procedures; Suspension; Withdrawal.
115.211 Changes limiting effectiveness of agency's law; Corrective actions; Suspension; Withdrawal; Consequences of repeal; Changes not limiting effectiveness.
115.212 Request after withdrawal.

Subpart C—Fair Housing Assistance Program

115.300 Purpose.
115.301 Agency eligibility criteria; Funding availability.
115.302 Capacity building funds.
115.303 Eligible activities for capacity building funds.
115.304 Agencies eligible for contributions funds.
115.305 Special enforcement effort (SEE) funds.
115.306 Training funds.
115.307 Requirements for participation in the FHAP; Corrective and remedial action for failing to comply with requirements.
115.308 Reporting and recordkeeping requirements.
115.309 Subcontracting under the FHAP.
115.310 FHAP and the First Amendment.
115.311 Testing.

Authority: 42 U.S.C. 3601–19; 42 U.S.C. 3535(d).

Subpart A—General

§ 115.100 Definitions.

(a) The terms ''Fair Housing Act,'' ''HUD,'' and ''the Department,'' as used in this part, are defined in 24 CFR 5.100.

(b) The terms ''aggrieved person,'' ''complainant,'' ''conciliation,'' ''conciliation agreement,'' ''discriminatory housing practice,'' ''dwelling,'' ''handicap,'' ''person,'' ''respondent,'' ''secretary,'' and ''state,'' as used in this part, are defined in Section 802 of the Fair Housing Act (42 U.S.C. 3602).

(c) *Other definitions.* The following definitions also apply to this part:

Act means the Fair Housing Act, as defined in 24 CFR 5.100.

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Certified agency is an agency that has been granted certification by the Assistant Secretary in accordance with the requirements of this part.

Cooperative agreement is the instrument HUD will use to provide funds. The Cooperative Agreement includes attachments and/or appendices establishing requirements relating to the operation and performance of the agency.

Cooperative agreement officer (CAO) is the administrator of the funds awarded pursuant to this part and is a regional director of the Office of Fair Housing and Equal Opportunity.

Dual-filed complaint means a housing discrimination complaint that has been filed with both HUD and the agency that has been granted interim certification or certification by the Assistant Secretary.

FHAP means the Fair Housing Assistance Program.

FHEO means HUD's Office of Fair Housing and Equal Opportunity.

FHEO regional director means a regional director of the Office of Fair Housing and Equal Opportunity.

Fair housing law or *Law* refers to both state fair housing laws and local fair housing laws.

Final administrative disposition means an agency's completion of a case following a reasonable cause finding, including, but not limited to, an agency-approved settlement or a final, administrative decision issued by commissioners, hearing officers or administrative law judges. Final administrative disposition does not include dispositions in judicial proceedings resulting from election or appeal.

Government Technical Monitor (GTM) means the HUD staff person who has been designated to provide technical and financial oversight and evaluation of the FHAP grantee's performance.

Government Technical Representative (GTR) means the HUD staff person who is responsible for the technical administration of the FHAP grant, the evaluation of performance under the FHAP grant, the acceptance of technical reports or projects, the approval of payments, and other such specific responsibilities as may be stipulated in the FHAP grant.

Impracticable, as used in this part, is when complaint processing is delayed by circumstances beyond the control of the interim or certified agency. Those situations include, but are not limited to, complaints involving complex issues requiring extensive investigations, complaints involving new and complicated areas of law that need to be analyzed, and where a witness is discovered late in the investigation and needs to be interviewed.

Interim agency is an agency that has been granted interim certification by the Assistant Secretary.

Ordinance, as used in this part, means a law enacted by the legislative body of a municipality.

Statute, as used in this part, means a law enacted by the legislative body of a state.

Testing refers to the use of an individual or individuals (''testers'') who, without a bona fide intent to rent or purchase a house, apartment, or other dwelling, pose as prospective renters or purchasers for the purpose of gathering information that may indicate whether a housing provider is complying with fair housing laws.

§ 115.101 Program administration.

(a) *Authority and responsibility.* The Secretary has delegated the authority and responsibility for administering this part to the Assistant Secretary.

(b) *Delegation of Authority.* The Assistant Secretary retains the right to make final decisions concerning the granting and withdrawal of substantial equivalency interim certification and certification. The Assistant Secretary delegates the authority and responsibility for administering the remainder of this part to the FHEO regional director. This includes assessing the performance of interim and certified agencies as described in § 115.206. This also includes the offering of a Performance Improvement Plan (PIP) as described in § 115.210 and the suspension of interim certification or certification due to performance deficiencies as described in § 115.210.

§ 115.102 Public notices.

(a) Periodically, the Assistant Secretary will publish the following public notices in the **Federal Register**:

(1) A list of all interim and certified agencies; and

(2) A list of agencies to which a withdrawal of interim certification or certification has been proposed.

(b) On an annual basis, the Assistant Secretary may publish in the **Federal Register** a notice that identifies all agencies that have received interim certification during the prior year. The

notice will invite the public to comment on the state and local laws of the new interim agencies, as well as on the performance of the agencies in enforcing their laws. All comments will be considered before a final decision on certification is made.

Subpart B—Certification of Substantially Equivalent Agencies

§ 115.200 Purpose.

This subpart implements section 810(f) of the Fair Housing Act. The purpose of this subpart is to set forth:

(a) The basis for agency interim certification and certification;

(b) Procedures by which a determination is made to grant interim certification or certification;

(c) How the Department will evaluate the performance of an interim and certified agency;

(d) Procedures that the Department will utilize when an interim or certified agency performs deficiently;

(e) Procedures that the Department will utilize when there are changes limiting the effectiveness of an interim or certified agency's law;

(f) Procedures for renewal of certification; and

(g) Procedures when an agency requests interim certification or certification after a withdrawal.

§ 115.201 The two phases of substantial equivalency certification.

Substantial equivalency certification is granted if the Department determines that a state or local agency enforces a law that is substantially equivalent to the Fair Housing Act with regard to substantive rights, procedures, remedies, and the availability of judicial review. The Department has developed a two-phase process of substantial equivalency certification.

(a) *Adequacy of Law.* In the first phase, the Assistant Secretary will determine whether, on its face, the fair housing law that the agency administers provides rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to those provided in the federal Fair Housing Act. An affirmative conclusion may result in the Department offering the agency interim certification. An agency must obtain interim certification prior to obtaining certification.

(b) *Adequacy of Performance.* In the second phase, the Assistant Secretary will determine whether, in operation, the fair housing law that the agency administers provides rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to those provided in the federal Fair Housing Act. An affirmative conclusion will result in the Department offering the agency certification.

§ 115.202 Request for interim certification.

(a) A request for interim certification under this subpart shall be filed with the Assistant Secretary by the state or local official having principal responsibility for the administration of the state or local fair housing law. The request shall be supported by the text of the jurisdiction's fair housing law, the law creating and empowering the agency, all laws referenced in the jurisdiction's fair housing law, any regulations and directives issued under the law, and any formal opinions of the State Attorney General or the chief legal officer of the jurisdiction that pertain to the jurisdiction's fair housing law. A request shall also include organizational information of the agency responsible for administering and enforcing the law.

(b) The request and supporting materials shall be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–2000. The Assistant Secretary shall forward a copy of the request and supporting materials to the appropriate FHEO regional director. A copy of the request and supporting materials will be kept available for public examination and copying at:

(1) The office of the Assistant Secretary; and

(2) The office of the state or local agency charged with administration and enforcement of the state or local fair housing law.

(c) Upon receipt of a request, HUD will analyze the agency's fair housing law to determine whether it meets the criteria identified in § 115.204.

(d) HUD shall review a request for interim certification from a local agency located in a state with an interim certified or certified substantially equivalent state agency. However, in the request for interim certification, the local agency must certify that the substantially equivalent state law does not prohibit the local agency from administering and enforcing its own fair housing law within the locality.

§ 115.203 Interim certification procedures.

(a) Upon receipt of a request for interim certification filed under § 115.202, the Assistant Secretary may request further information necessary for a determination to be made under this section. The Assistant Secretary may consider the relative priority given to fair housing administration, as compared to the agency's other duties and responsibilities, as well as the compatibility or potential conflict of fair housing objectives with these other duties and responsibilities.

(b) If the Assistant Secretary determines, after application of the criteria set forth in § 115.204, that the state or local law, on its face, provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the Assistant Secretary may offer to enter into an Agreement for the Interim Referral of Complaints and Other Utilization of Services (interim agreement). The interim agreement will outline the procedures and authorities upon which the interim certification is based.

(c) Such interim agreement, after it is signed by all appropriate signatories, will result in the agency receiving interim certification. Appropriate signatories include the Assistant Secretary, the FHEO regional director, and the state or local official having principal responsibility for the administration of the state or local fair housing law.

(d) Interim agreements shall be for a term of no more than three years.

(e) All regulations, rules, directives, and/or opinions of the State Attorney General or the jurisdiction's chief legal officer that are necessary for the law to be substantially equivalent on its face must be enacted and effective in order for the Assistant Secretary to offer the agency an interim agreement.

(f) Interim certification required prior to certification. An agency is required to obtain interim certification prior to obtaining certification.

§ 115.204 Criteria for adequacy of law.

(a) In order for a determination to be made that a state or local fair housing agency administers a law, which, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the law must:

(1) Provide for an administrative enforcement body to receive and process complaints and provide that:

(i) Complaints must be in writing;

(ii) Upon the filing of a complaint, the agency shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law;

(iii) Upon the filing of a complaint, the agency shall promptly serve notice on the respondent or person charged with the commission of a discriminatory housing practice advising of his or her

procedural rights and obligations under the statute or ordinance, together with a copy of the complaint;

(iv) A respondent may file an answer to a complaint.

(2) Delegate to the administrative enforcement body comprehensive authority, including subpoena power, to investigate the allegations of complaints, and power to conciliate complaints, and require that:

(i) The agency commences proceedings with respect to the complaint before the end of the 30th day after receipt of the complaint;

(ii) The agency investigates the allegations of the complaint and complete the investigation within the timeframe established by section 810(a)(1)(B)(iv) of the Act or comply with the notification requirements of section 810(a)(1)(C) of the Act;

(iii) The agency make final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so. If the agency is unable to do so, it shall notify the parties, in writing, of the reasons for not doing so;

(iv) Any conciliation agreement arising out of conciliation efforts by the agency shall be an agreement between the respondent, the complainant, and the agency and shall require the approval of the agency;

(v) Each conciliation agreement shall be made public, unless the complainant and respondent otherwise agree and the agency determines that disclosure is not required to further the purpose of the law.

(3) Not place excessive burdens on the aggrieved person that might discourage the filing of complaints, such as:

(i) A provision that a complaint must be filed within any period of time less than 180 days after an alleged discriminatory practice has occurred or terminated;

(ii) Anti-testing provisions;

(iii) Provisions that could subject an aggrieved person to costs, criminal penalties, or fees in connection with the filing of complaints.

(4) Not contain exemptions that substantially reduce the coverage of housing accommodations as compared to section 803 of the Act.

(5) Provide the same protections as those afforded by sections 804, 805, 806, and 818 of the Act, consistent with HUD's implementing regulations found at 24 CFR part 100.

(b) In addition to the factors described in paragraph (a) of this section, the provisions of the state or local law must afford administrative and judicial protection and enforcement of the rights embodied in the law.

(1) The agency must have the authority to:

(i) Grant or seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint, if such action is necessary to carry out the purposes of the law;

(ii) Issue and seek enforceable subpoenas;

(iii) Grant actual damages in an administrative proceeding or provide adjudication in court at agency expense to allow the award of actual damages to an aggrieved person;

(iv) Grant injunctive or other equitable relief, or be specifically authorized to seek such relief in a court of competent jurisdiction;

(v) Provide an administrative proceeding in which a civil penalty may be assessed or provide adjudication in court, at agency expense, allowing the assessment of punitive damages against the respondent.

(2) If an agency's law offers an administrative hearing, the agency must also provide parties an election option substantially equivalent to the election provisions of section 812 of the Act.

(3) Agency actions must be subject to judicial review upon application by any party aggrieved by a final agency order.

(4) Judicial review of a final agency order must be in a court with authority to:

(i) Grant to the petitioner, or to any other party, such temporary relief, restraining order, or other order as the court determines is just and proper;

(ii) Affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceeding; and

(iii) Enforce the order to the extent that the order is affirmed or modified.

(c) The requirement that the state or local law prohibit discrimination on the basis of familial status does not require that the state or local law limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(d) The state or local law may assure that no prohibition of discrimination because of familial status applies to housing for older persons, as described in 24 CFR part 100, subpart E.

(e) A determination of the adequacy of a state or local fair housing law ''on its face'' is intended to focus on the meaning and intent of the text of the law, as distinguished from the effectiveness of its administration. Accordingly, this determination is not limited to an analysis of the literal text of the law. Regulations, directives, rules of procedure, judicial decisions, or interpretations of the fair housing law by competent authorities will be considered in making this determination.

(f) A law will be found inadequate ''on its face'' if it permits any of the agency's decision-making authority to be contracted out or delegated to a non-governmental authority. For the purposes of this paragraph, ''decision-making authority'' includes but is not limited to:

(1) Acceptance of a complaint;

(2) Approval of a conciliation agreement;

(3) Dismissal of a complaint;

(4) Any action specified in § 115.204(a)(2)(iii) or (b)(1); and

(5) Any decision-making regarding whether a particular matter will or will not be pursued.

(g) The state or local law must provide for civil enforcement of the law by an aggrieved person by the commencement of an action in an appropriate court at least one year after the occurrence or termination of an alleged discriminatory housing practice. The court must be empowered to:

(1) Award the plaintiff actual and punitive damages;

(2) Grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order; and

(3) Allow reasonable attorney's fees and costs.

(h) If a state or local law is different than the Act in a way that does not diminish coverage of the Act, including, but not limited to, the protection of additional prohibited bases, then the state or local law may still be found substantially equivalent.

§ 115.205 Certification procedures.

(a) *Certification.* (1) If the Assistant Secretary determines, after application of criteria set forth in §§ 115.204, 115.206, and this section, that the state or local law, both ''on its face'' and ''in operation,'' provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the Assistant Secretary may enter into a Memorandum of Understanding (MOU) with the agency.

(2) The MOU is a written agreement providing for the referral of complaints to the agency and for communication procedures between the agency and HUD that are adequate to permit the Assistant Secretary to monitor the agency's continuing substantial equivalency certification.

(3) The MOU, after it is signed by all appropriate signatories, may authorize an agency to be a certified agency for a period of not more than five years. Appropriate signatories include the Assistant Secretary, the FHEO regional director, and the authorized employee(s) of the agency.

(b) In order to receive certification, during the 60 days prior to the expiration of the agency's interim agreement, the agency must certify to the Assistant Secretary that the state or local fair housing law, ''on its face,'' continues to be substantially equivalent to the Act (i.e., there have been no amendments to the state or local fair housing law, adoption of rules or procedures concerning the fair housing law, or judicial or other authoritative interpretations of the fair housing law that limit the effectiveness of the agency's fair housing law).

§ 115.206 Performance assessments; Performance standards.

(a) *Frequency of on-site performance assessment during interim certification.* The Assistant Secretary, through the appropriate FHEO regional office, may conduct an on-site performance assessment not later than six months after the execution of the interim agreement. An on-site performance assessment may also be conducted during the six months immediately prior to the expiration of the interim agreement. HUD has the discretion to conduct additional performance assessments during the period of interim certification, as it deems necessary.

(b) *Frequency of on-site performance assessment during certification.* During certification, the Assistant Secretary through the FHEO regional office, may conduct on-site performance assessments every 24 months. HUD has the discretion to conduct additional performance assessments during the period of certification, as it deems necessary.

(c) In conducting the performance assessment, the FHEO regional office shall determine whether the agency engages in timely, comprehensive, and thorough fair housing complaint investigation, conciliation, and enforcement activities. In the performance assessment report, the FHEO regional office may recommend to the Assistant Secretary whether the agency should continue to be interim certified or certified. In conducting the performance assessment, the FHEO regional office shall also determine whether the agency is in compliance with the requirements for participation in the FHAP enumerated in §§ 115.307, 115.308, 115.309, 115.310, and 115.311 of this part. In the performance assessment report, the FHEO regional office shall identify whether the agency meets the requirements of §§ 115.307, 115.308, 115.309, 115.310, and 115.311 of this part, and, therefore, should continue receiving funding under the FHAP.

(d) At a minimum, the performance assessment will consider the following to determine the effectiveness of an agency's fair housing complaint processing, consistent with such guidance as may be issued by HUD:

(1) The agency's case processing procedures;

(2) The thoroughness of the agency's case processing;

(3) A review of cause and no cause determinations for quality of investigations and consistency with appropriate standards;

(4) A review of conciliation agreements and other settlements;

(5) A review of the agency's administrative closures; and

(6) A review of the agency's enforcement procedures, including administrative hearings and judicial proceedings.

(e) *Performance standards.* HUD shall utilize the following performance standards while conducting performance assessments. If an agency does not meet one or more performance standard(s), HUD shall utilize the performance deficiency procedures enumerated in § 115.210.

(1) *Performance Standard 1.* Commence complaint proceedings, carry forward such proceedings, complete investigations, issue determinations, and make final administrative dispositions in a timely manner. To meet this standard, the performance assessment will consider the timeliness of the agency's actions with respect to its complaint processing, including, but not limited to:

(i) Whether the agency began its processing of fair housing complaints within 30 days of receipt;

(ii) Whether the agency completes the investigative activities with respect to a complaint within 100 days from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reason(s) for the delay;

(iii) Whether the agency makes a determination of reasonable cause or no reasonable cause with respect to a complaint within 100 days from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reason(s) for the delay;

(iv) Whether the agency makes a final administrative disposition of a complaint within one year from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reason(s) for the delay; and

(v) Whether the agency completed the investigation of the complaint and prepared a complete, final investigative report.

(vi) When an agency is unable to complete investigative activities with respect to a complaint within 100 days, the agency must send written notification to the parties, indicating the reason(s) for the delay, within 110 days of the filing of the complaint.

(2) *Performance Standard 2.* Administrative closures are utilized only in limited and appropriate circumstances. Administrative closures should be distinguished from a closure on the merits and may not be used instead of making a recommendation or determination of reasonable or no reasonable cause. HUD will provide further guidance to interim and certified agencies on the appropriate circumstances for administrative closures.

(3) *Performance Standard 3.* During the period beginning with the filing of a complaint and ending with filing of a charge or dismissal, the agency will, to the extent feasible, attempt to conciliate the complaint. After a charge has been issued, the agency will, to the extent feasible, continue to attempt settlement until a hearing or a judicial proceeding has begun.

(4) *Performance Standard 4.* The agency conducts compliance reviews of settlements, conciliation agreements, and orders resolving discriminatory housing practices. The performance assessment shall include, but not be limited to:

(i) An assessment of the agency's procedures for conducting compliance reviews; and

(ii) Terms and conditions of agreements and orders issued.

(5) *Performance Standard 5.* The agency must consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of discriminatory practices. The performance assessment shall include, but not be limited to:

(i) An assessment of the agency's use of its authority to seek actual damages, as appropriate;

(ii) An assessment of the agency's use of its authority to seek and assess civil penalties or punitive damages, as appropriate;

(iii) An assessment of the types of relief sought by the agency with consideration for the inclusion of affirmative provisions designed to protect the public interest;

(iv) A review of all types of relief obtained;

(v) A review of the adequacy of the relief sought and obtained in light of the issues raised by the complaint;

(vi) The number of complaints closed with relief and the number closed without relief;

(vii) The number of complaints that proceed to administrative hearing and the result; and

(viii) The number of complaints that proceed to judicial proceedings and the result.

(6) *Performance Standard 6.* The agency must consistently and affirmatively seek to eliminate all prohibited practices under its fair housing law. An assessment under this standard will include, but not be limited to, an identification of the education and outreach efforts of the agency.

(7) *Performance Standard 7.* The agency must demonstrate that it receives and processes a reasonable number of complaints cognizable under both the federal Fair Housing Act and the agency's fair housing statute or ordinance. The reasonable number will be determined by HUD and based on all relevant circumstances including, but not limited to, the population of the jurisdiction that the agency serves, the length of time that the agency has participated in the FHAP, and the number of complaints that the agency has received and processed in the past. If an agency fails to receive and process a reasonable number of complaints during a year of FHAP participation, given education and outreach efforts conducted and receipts of complaints, then the FHEO regional director may offer the agency a Performance Improvement Plan (PIP), as described in § 115.210(a)(2). The PIP will set forth the number of complaints the agency must process during subsequent years of FHAP participation. After issuing the PIP, the FHEO regional office will provide the agency with technical assistance on ways to increase awareness of fair housing rights and responsibilities in the jurisdiction.

(8) *Performance Standard 8.* The agency must report to HUD on the final status of all dual-filed complaints where a determination of reasonable cause was made. The report must identify, at a minimum, how complaints were resolved (e.g., settlement, judicial proceedings, or administrative hearing), when they were resolved, the forum in which they were resolved, and types and amounts of relief obtained.

(9) *Performance Standard 9.* The agency must conform its performance to the provisions of any written agreements executed by the agency and the Department related to substantial equivalency certification, including, but not limited to, the interim agreement or MOU.

§ 115.207 Consequences of interim certification and certification.

(a) Whenever a complaint received by the Assistant Secretary alleges violations of a fair housing law administered by an agency that has been interim certified or certified as substantially equivalent, the complaint will be referred to the agency, and no further action shall be taken by the Assistant Secretary with respect to such complaint except as provided for by the Act, this part, 24 CFR part 103, subpart C, and any written agreements executed by the Agency and the Assistant Secretary. HUD shall make referrals to interim certified and certified local agencies in accordance with this section even when the local agency is located in a state with an interim certified or certified state agency.

(b) If HUD determines that a complaint has not been processed in a timely manner in accordance with the performance standards set forth in § 115.206, HUD may reactivate the complaint, conduct its own investigation and conciliation efforts, and make a determination consistent with 24 CFR part 103.

(c) Notwithstanding paragraph (a) of this section, whenever the Assistant Secretary has reason to believe that a complaint demonstrates a basis for the commencement of proceedings against any respondent under section 814(a) of the Act or for proceedings by any governmental licensing or supervisory authorities, the Assistant Secretary shall transmit the information upon which such belief is based to the Attorney General, federal financial regulatory agencies, other federal agencies, or other appropriate governmental licensing or supervisory authorities.

§ 115.208 Procedures for renewal of certification.

(a) If the Assistant Secretary affirmatively concludes that the agency's law and performance have complied with the requirements of this part in each of the five years of certification, the Assistant Secretary may renew the certification of the agency.

(b) In determining whether to renew the certification of an agency, the Assistant Secretary's review may include, but is not limited to:

(1) Performance assessments of the agency conducted by the Department during the five years of certification;

(2) The agency's own certification that the state or local fair housing law continues to be substantially equivalent both ''on its face'' and ''in operation;'' (i.e., there have been no amendments to the state or local fair housing law, adoption of rules or procedures concerning the fair housing law, or judicial or other authoritative interpretations of the fair housing law that limit the effectiveness of the agency's fair housing law); and

(3) Any and all public comments regarding the relevant state and local laws and the performance of the agency in enforcing the law.

(c) If the Assistant Secretary decides to renew an agency's certification, the Assistant Secretary will offer the agency either a new MOU or an Addendum to the Memorandum of Understanding (addendum). The new MOU or addendum will extend and update the MOU between HUD and the agency.

(d) The new MOU or addendum, when signed by all appropriate signatories, will result in the agency's certification being renewed for five years from the date on which the previous MOU was to expire. Appropriate signatories include the Assistant Secretary, the FHEO regional director, and the authorized employee(s) of the agency.

(e) The provisions of this section may be applied to an agency that has an expired MOU or an expired addendum.

§ 115.209 Technical assistance.

(a) The Assistant Secretary, through the FHEO regional office, may provide technical assistance to the interim and certified agencies at any time. The agency may request such technical assistance or the FHEO regional office may determine the necessity for technical assistance and require the agency's cooperation and participation.

(b) The Assistant Secretary, through FHEO headquarters or regional staff, will require that the agency participate in training conferences and seminars that will enhance the agency's ability to process complaints alleging discriminatory housing practices.

§ 115.210 Performance deficiency procedures; Suspension; Withdrawal.

(a) HUD may utilize the following performance deficiency procedures if it determines at any time that the agency does not meet one or more of the performance standards enumerated in § 115.206. The performance deficiency procedures may be applied to agencies with either interim certification or certification. If an agency fails to meet performance standard 7, HUD may bypass the technical assistance

performance deficiency procedure and proceed to the PIP.

(1) *Technical assistance.* After discovering the deficiency, the FHEO regional office should immediately inform the agency and provide the agency with technical assistance.

(2) *Performance improvement plan.* If, following technical assistance, the agency does not bring its performance into compliance with § 115.206 within a time period identified by the FHEO regional director, the FHEO regional director may offer the agency a PIP.

(i) The PIP will outline the agency's performance deficiencies, identify the necessary corrective actions, and include a timetable for completion.

(ii) If the agency receives a PIP, funding under the FHAP may be suspended for the duration of the PIP.

(iii) Once the agency has implemented the corrective actions to eliminate the deficiencies, and such corrective actions are accepted by the FHEO regional director, funding may be restored.

(iv) The FHEO regional office may provide the agency with technical assistance during the period of the PIP, if appropriate.

(b) *Suspension.* If the agency does not agree to implement the PIP or does not implement the corrective actions identified in the PIP within the time allotted, then the FHEO regional director may suspend the agency's interim certification or certification.

(1) The FHEO regional director shall notify the agency in writing of the specific reasons for the suspension and provide the agency with an opportunity to respond within 30 days.

(2) Suspension shall not exceed 180 days.

(3) During the period of suspension, HUD will not refer complaints to the agency.

(4) If an agency is suspended, the FHEO regional office may elect not to provide funding under the FHAP to the agency during the period of suspension, unless and until the Assistant Secretary determines that the agency is fully in compliance with § 115.206.

(5) HUD may provide the agency with technical assistance during the period of suspension, if appropriate.

(6) No more than 60 days prior to the end of suspension, the FHEO regional office shall conduct a performance assessment of the agency.

(c) *Withdrawal.* If, following the performance assessment conducted at the end of suspension, the Assistant Secretary determines that the agency has not corrected the deficiencies, the Assistant Secretary may propose to withdraw the interim certification or certification of the agency.

(1) The Assistant Secretary shall proceed with withdrawal, unless the agency provides information or documentation that establishes that the agency's administration of its law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115.

(2) The Assistant Secretary shall inform the agency in writing of the reasons for the withdrawal.

(3) During any period after which the Assistant Secretary proposes withdrawal, until such time as the agency establishes that administration of its law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115, the agency shall be ineligible for funding under the FHAP.

§ 115.211 Changes limiting effectiveness of agency's law; Corrective actions; Suspension; Withdrawal; Consequences of repeal; Changes not limiting effectiveness.

(a) *Changes limiting effectiveness of agency's law.* (1) If a state or local fair housing law that HUD has previously deemed substantially equivalent to the Act is amended; or rules or procedures concerning the fair housing law are adopted; or judicial or other authoritative interpretations of the fair housing law are issued, the interim-certified or certified agency must inform the Assistant Secretary of such amendment, adoption, or interpretation within 60 days of its discovery.

(2) The requirements of this section shall apply equally to the amendment, adoption, or interpretation of any related law that bears on any aspect of the effectiveness of the agency's fair housing law.

(3) The Assistant Secretary may conduct a review to determine if the amendment, adoption, or interpretation limits the effectiveness of the interim agency's fair housing law.

(b) *Corrective actions.* (1) If the review indicates that the agency's law no longer meets the criteria identified in § 115.204, the Assistant Secretary will so notify the agency in writing. Following notification, HUD may take appropriate actions, including, but not limited to, any or all of the following:

(i) Declining to refer some or all complaints to the agency unless and until the fair housing law meets the criteria identified in § 115.204;

(ii) Electing not to provide payment for complaints processed by the agency unless and until the fair housing law meets the criteria identified in § 115.204;

(iii) Providing technical assistance and/or guidance to the agency to assist the agency in curing deficiencies in its fair housing law.

(2) *Suspension based on changes in the law.* If the corrective actions identified in paragraph (b)(1)(i) through (iii) of this section fail to bring the state or local fair housing law back into compliance with the criteria identified in § 115.204 within the timeframe identified in HUD's notification to the agency, the Assistant Secretary may suspend the agency's interim certification or certification based on changes in the law or a related law.

(i) The Assistant Secretary will notify the agency in writing of the specific reasons for the suspension and provide the agency with an opportunity to respond within 30 days.

(ii) During the period of suspension, the Assistant Secretary has the discretion to not refer some or all complaints to the agency unless and until the agency's law meets the criteria identified in § 115.204.

(iii) During suspension, HUD may elect not to provide payment for complaints processed unless and until the agency's law meets the criteria identified in § 115.204.

(iv) During the period of suspension, if the fair housing law is brought back into compliance with the criteria identified in § 115.204, and the Assistant Secretary determines that the fair housing law remains substantially equivalent to the Act, the Assistant Secretary will rescind the suspension and reinstate the agency's interim certification or certification.

(3) *Withdrawal based on changes in the law.* If the Assistant Secretary determines that the agency has not brought its law back into compliance with the criteria identified in § 115.204 during the period of suspension, the Assistant Secretary may propose to withdraw the agency's interim certification or certification.

(i) The Assistant Secretary will proceed with withdrawal unless the agency provides information or documentation that establishes that the agency's current law meets the criteria of substantial equivalency certification identified in § 115.204.

(ii) The Assistant Secretary will inform the agency in writing of the reasons for the withdrawal.

(c) (1) If, following notification from HUD that its fair housing law no longer meets the criteria identified in § 115.204, an interim-certified or certified agency unequivocally expresses to HUD that its fair housing law will not be brought back into compliance, the Assistant Secretary may forgo suspension and proceed directly

to withdrawal of the agency's interim certification or certification.

(2) During any period after which the Assistant Secretary proposes withdrawal, until such time as the agency establishes that administration of its law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115, the agency shall be ineligible for funding under the FHAP.

(d) *Consequences of repeal.* If a state or local fair housing law that HUD has previously deemed substantially equivalent to the Act is repealed, in whole or in part, or a related law that bears on any aspect of the effectiveness of the agency's fair housing law is repealed, in whole or in part, the Assistant Secretary may immediately withdraw the agency's interim certification or certification.

(e) *Changes not limiting effectiveness.* Nothing in this section is meant to limit the Assistant Secretary's authority to determine that a change to a fair housing law does not jeopardize the substantial equivalency interim certification or certification of an agency.

(1) Under such circumstances, the Assistant Secretary may proceed in maintaining the existing relationship with the agency, as set forth in the interim agreement or MOU.

(2) Alternatively, the Assistant Secretary may decide not to refer certain types of complaints to the agency. The Assistant Secretary may elect not to provide payment for these complaints and may require the agency to refer such complaints to the Department for investigation, conciliation, and enforcement activities.

(3) When the Assistant Secretary determines that a change to a fair housing law does not jeopardize an agency's substantial equivalency certification, the Assistant Secretary need not proceed to suspension or withdrawal if the change is not reversed.

§ 115.212 Request after withdrawal.

(a) An agency that has had its interim certification or certification withdrawn, either voluntarily or by the Department, may request substantial equivalency interim certification or certification.

(b) The request shall be filed in accordance with § 115.202.

(c) The Assistant Secretary shall determine whether the state or local law, on its face, provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the federal Fair Housing Act. To meet this standard, the state or local law must meet the criteria enumerated in § 115.204.

(d) Additionally, if the agency had documented performance deficiencies that contributed to the past withdrawal, then the Department shall consider the agency's performance and any steps the agency has taken to correct performance deficiencies and to prevent them from recurring in determining whether to grant interim certification or certification. The review of the agency's performance shall include HUD conducting a performance assessment in accordance with § 115.206.

Subpart C—Fair Housing Assistance Program

§ 115.300 Purpose.

The purpose of the Fair Housing Assistance Program (FHAP) is to provide assistance and reimbursement to state and local fair housing enforcement agencies. The intent of this funding program is to build a coordinated intergovernmental enforcement effort to further fair housing and to encourage the agencies to assume a greater share of the responsibility for the administration and enforcement of fair housing laws.

The financial assistance is designed to provide support for:

(a) The processing of dual-filed complaints;

(b) Training under the Fair Housing Act and the agencies' fair housing law;

(c) The provision of technical assistance;

(d) The creation and maintenance of data and information systems; and

(e) The development and enhancement of fair housing education and outreach projects, special fair housing enforcement efforts, fair housing partnership initiatives, and other fair housing projects.

§ 115.301 Agency eligibility criteria; Funding availability.

An agency with certification or interim certification under subpart B of this part, and which has entered into a MOU or interim agreement, is eligible to participate in the FHAP. All FHAP funding is subject to congressional appropriation.

§ 115.302 Capacity building funds.

(a) Capacity building (CB) funds are funds that HUD may provide to an agency with interim certification.

(b) CB funds will be provided in a fixed annual amount to be utilized for the eligible activities established pursuant to § 115.303. When the fixed annual amount will not adequately compensate an agency in its first year of participation in the FHAP due to the large number of fair housing complaints that the agency reasonably anticipates processing, HUD may provide the agency with additional funds.

(c) HUD may provide CB funds during an agency's first three years of participation in the FHAP. However, in the second and third year of the agency's participation in the FHAP, HUD has the option to permit the agency to receive contribution funds under § 115.304, instead of CB funds.

(d) In order to receive CB funding, agencies must submit a statement of work prior to the signing of the cooperative agreement. The statement of work must identify:

(1) The objectives and activities to be carried out with the CB funds received;

(2) A plan for training all of the agency's employees involved in the administration of the agency's fair housing law;

(3) A statement of the agency's intention to participate in HUD-sponsored training in accordance with the training requirements set out in the cooperative agreement;

(4) A description of the agency's complaint processing data and information system, or, alternatively, whether the agency plans to use CB funds to purchase and install a data system;

(5) A description of any other fair housing activities that the agency will undertake with its CB funds. All such activities must address matters affecting fair housing enforcement that are cognizable under the Fair Housing Act. Any activities that do not address the implementation of the agency's fair housing law, and that are therefore not cognizable under the Fair Housing Act, will be disapproved.

§ 115.303 Eligible activities for capacity building funds.

The primary purposes of capacity-building funding are to provide for complaint activities and to support activities that produce increased awareness of fair housing rights and remedies. All such activities must support the agency's administration and enforcement of its fair housing law and address matters affecting fair housing that are cognizable under the Fair Housing Act.

§ 115.304 Agencies eligible for contributions funds.

(a) An agency that has received CB funds for one to three consecutive years may be eligible for contributions funding. Contributions funding consists of five categories:

(1) Complaint processing (CP) funds;

(2) Special enforcement effort (SEE) funds (see § 115.305);

(3) Training funds (see § 115.306);

(4) Administrative cost (AC) funds; and

(5) Partnership (P) funds.

(b) *CP funds.* (1) Agencies receiving CP funds will receive such support based solely on the number of complaints processed by the agency and accepted for payment by the FHEO regional director during a consecutive, specifically identified, 12-month period. The 12-month period will be identified in the cooperative agreement between HUD and the agency. The FHEO regional office shall determine whether or not cases are acceptably processed based on requirements enumerated in the cooperative agreement and its attachments/appendices, performance standards set forth in 24 CFR 115.206, and provisions of the interim agreement or MOU.

(2) The amount of funding to agencies that are new to contributions funding will be based on the number of complaints acceptably processed by the agency during the specifically identified 12-month period preceding the signing of the cooperative agreement.

(c) *AC funds.* (1) Agencies that acceptably process 100 or more cases will receive no less than 10 percent of the agency's total FHAP payment amount for the preceding year, in addition to CP funds, contingent on fiscal year appropriations. Agencies that acceptably process fewer than 100 cases will receive a flat rate, contingent on fiscal year appropriations.

(2) Agencies will be required to provide HUD with a statement of how they intend to use the AC funds. HUD may require that some or all AC funding be directed to activities designed to create, modify, or improve local, regional, or national information systems concerning fair housing matters (including the purchase of state-of-the-art computer systems, obtaining and maintaining Internet access, etc.).

(d) *P funds.* The purpose of P funds is for an agency participating in the FHAP to utilize the services of individuals and/or public, private, for-profit, or not-for-profit organizations that have expertise needed to effectively carry out the provisions of the agency's fair housing law. P funds are fixed amounts and shall be allocated based on the FHAP appropriation. Agencies must consult with the CAO and GTR in identifying appropriate usage of P funds for the geographical area that the agency services. Some examples of proper P fund usage include, but are not limited to:

(1) Contracting with qualified organizations to conduct fair housing testing in appropriate cases;

(2) Hiring experienced, temporary staff to assist in the investigation of complex or aged cases;

(3) Partnering with grassroots, faith-based or other community-based organizations to conduct education and outreach to people of different backgrounds on how to live together peacefully in the same housing complex, neighborhood, or community;

(4) Contracting with individuals outside the agency who have special expertise needed for the investigation of fair housing cases (e.g., architects for design and construction cases or qualified individuals from colleges and universities for the development of data and statistical analyses).

§ 115.305 Special enforcement effort (SEE) funds.

(a) SEE funds are funds that HUD may provide to an agency to enhance enforcement activities of the agency's fair housing law. SEE funds will be a maximum of 20 percent of the agency's total FHAP cooperative agreement for the previous contract year, based on approval of eligible activity or activities, and contingent upon the appropriation of funds. All agencies receiving contributions funds are eligible to receive SEE funds if they meet three of the six criteria set out in paragraphs (a)(1) through (a)(6) of this section:

(1) The agency enforced a subpoena or made use of its prompt judicial action authority within the past year;

(2) The agency has held at least one administrative hearing or has had at least one case on a court's docket for civil proceedings during the past year;

(3) At least ten percent of the agency's fair housing caseload resulted in written conciliation agreements providing monetary relief for the complainant as well as remedial action, monitoring, reporting, and public interest relief provisions;

(4) The agency has had in the most recent three years, or is currently engaged in, at least one major fair housing systemic investigation requiring an exceptional amount of funds expenditure;

(5) The agency's administration of its fair housing law received meritorious mention for its fair housing complaint processing or other fair housing activities that were innovative. The meritorious mention criterion may be met by an agency's successful fair housing work being identified and/or published by a reputable source. Examples of meritorious mention include, but are not limited to:

(i) An article in a minority newspaper or a newspaper of general circulation that identifies the agency's role in the successful resolution of a housing discrimination complaint;

(ii) A letter from a sponsoring organization of a fair housing conference or symposium that identifies the agency's successful participation and presentation at the conference or symposium;

(iii) A letter of praise, proclamation, or other formal documentation from the mayor, county executive, or governor recognizing the fair housing achievement of the agency.

(6) The agency has completed the investigation of at least 10 fair housing complaints during the previous funding year.

(b) Regardless of whether an agency meets the eligibility criteria set forth in paragraph (a) of this section, an agency is ineligible for SEE funds if:

(1) Twenty percent or more of an agency's fair housing complaints result in administrative closures; or

(2) The agency is currently on a PIP, or its interim certification or certification has been suspended during the federal fiscal year in which SEE funds are sought.

(c) SEE funding amounts are subject to the FHAP appropriation by Congress and will be described in writing in the cooperative agreements annually. HUD will periodically publish a list of activities eligible for SEE funding in the **Federal Register**.

§ 115.306 Training funds.

(a) All agencies, including agencies that receive CB funds, are eligible to receive training funds. Training funds are fixed amounts based on the number of agency employees to be trained. Training funds shall be allocated based on the FHAP appropriation. Training funds may be used only for HUD-approved or HUD-sponsored training. Agency-initiated training or other formalized training may be included in this category. However, such training must first be approved by the CAO and the GTR. Specifics on the amount of training funds that an agency will receive and, if applicable, amounts that may be deducted, will be set out in the cooperative agreement each year.

(b) Each agency must send staff to mandatory FHAP training sponsored by HUD, including, but not necessarily limited to, the National Fair Housing Training Academy and the National Fair Housing Policy Conference. If the agency does not participate in mandatory HUD-approved and HUD-sponsored training, training funds will be deducted from the agency's overall

training amount. All staff of the agency responsible for the administration and enforcement of the fair housing law must participate in HUD-approved or HUD-sponsored training each year.

§ 115.307 Requirements for participation in the FHAP; Corrective and remedial action for failing to comply with requirements.

(a) Agencies that participate in the FHAP must meet the requirements enumerated in this section. The FHEO regional office shall review the agency's compliance with the requirements of this section when it conducts on-site performance assessments in accordance with § 115.206. The requirements for participation in the FHAP are as follows:

(1) The agency must conform to all reporting and record maintenance requirements set forth in § 115.308, as well as any additional reporting and record maintenance requirements identified by the Assistant Secretary.

(2) The agency must agree to on-site technical assistance and guidance and implementation of corrective actions set out by the Department in response to deficiencies found during the technical assistance or performance assessment evaluations of the agency's operations.

(3) The agency must use the Department's official complaint data information system and must input all relevant data and information into the system in a timely manner.

(4) The agency must agree to implement and adhere to policies and procedures (as the agency's laws allow) provided to the agency by the Assistant Secretary, including, but not limited to, guidance on investigative techniques, case file preparation and organization, and implementation of data elements for complaint tracking.

(5) If an agency that participates in the FHAP enforces antidiscrimination laws other than a fair housing law (e.g., administration of a fair employment law), the agency must annually provide a certification to HUD stating that it spends at least 20 percent of its total annual budget on fair housing activities. The term ''total annual budget,'' as used in this subsection, means the entire budget assigned by the jurisdiction to the agency for enforcing and administering antidiscrimination laws, but does not include FHAP funds.

(6) The agency may not co-mingle FHAP funds with other funds. FHAP funds must be segregated from the agency's and the state or local government's other funds and must be used for the purpose that HUD provided the funds.

(7) An agency may not unilaterally reduce the level of financial resources currently committed to fair housing activities (budget and staff reductions or other actions outside the control of the agency will not, alone, result in a negative determination for the agency's participation in the FHAP).

(8) The agency must comply with the provisions, certifications, and assurances required in any and all written agreements executed by the agency and the Department related to participation in the FHAP, including, but not limited to, the cooperative agreement.

(9) The agency must draw down its funds in a timely manner.

(10) The agency must be audited and receive copies of the audit reports in accordance with applicable rules and regulations of the state and local government in which it is located.

(11) The agency must participate in all required training, as described in § 115.306(b).

(12) If the agency subcontracts any activity for which the subcontractor will receive FHAP funds, the agency must conform to the subcontracting requirements of § 115.309.

(13) If the agency receives a complaint that may implicate the First Amendment of the United States Constitution, then the agency must conform to the requirements of § 115.310.

(14) If the agency utilizes FHAP funds to conduct fair housing testing, then the agency must conform to the requirements of § 115.311.

(b) *Corrective and remedial action for failing to comply with requirements.* The agency's refusal to provide information, assist in implementation, or carry out the requirements of this section may result in the denial or interruption of its receipt of FHAP funds. Prior to denying or interrupting an agency's receipt of FHAP funds, HUD will put the agency on notice of its intent to deny or interrupt. HUD will identify its rationale for the denial or interruption and provide the agency with an opportunity to respond within a reasonable period of time. If, within the time period requested, the agency does not provide information or documentation indicating that the requirement(s) enumerated in this section is/are met, HUD may proceed with the denial or interruption of FHAP funds. If, at any time following the denial or interruption, HUD learns that the agency meets the requirements enumerated in this section, HUD may opt to reinstate the agency's receipt of FHAP funds.

§ 115.308 Reporting and recordkeeping requirements.

(a) The agency shall establish and maintain records demonstrating:

(1) Its financial administration of FHAP funds; and

(2) Its performance under the FHAP.

(b) The agency will provide to the FHEO regional director reports maintained pursuant to paragraph (a) of this section. The agency will provide reports to the FHEO regional director in accordance with the frequency and content requirements identified in the cooperative agreement. In addition, the agency will provide reports on the final status of complaints following reasonable cause findings, in accordance with Performance Standard 8 identified in § 115.206.

(c) The agency will permit reasonable public access to its records consistent with the jurisdiction's requirements for release of information. Documents relevant to the agency's participation in the FHAP must be made available at the agency's office during normal working hours (except that documents with respect to ongoing fair housing complaint investigations are exempt from public review consistent with federal and/or state law).

(d) The Secretary, Inspector General of HUD, and the Comptroller General of the United States or any of their duly authorized representatives shall have access to all pertinent books, accounts, reports, files, and other payments for surveys, audits, examinations, excerpts, and transcripts as they relate to the agency's participation in FHAP.

(e) All files will be kept in such fashion as to permit audits under applicable Office of Management and Budget circulars, procurement regulations and guidelines, and the Single Audit requirements for state and local agencies.

§ 115.309 Subcontracting under the FHAP.

If an agency subcontracts to a public or private organization any activity for which the organization will receive FHAP funds, the agency must ensure and certify in writing that the organization is:

(a) Using services, facilities, and electronic information technologies that are accessible in accordance with the Americans with Disability Act (ADA) (42 U.S.C. 12101), Section 504 of the 1973 Rehabilitation Act (29 U.S.C. 701), and Section 508(a)(1) of the Rehabilitation Act amendments of 1998;

(b) Complying with the standards of Section 3 of the Housing and Urban Development Act of 1968 (42 U.S.C. 1441);

(c) Affirmatively furthering fair housing in the provision of housing and housing-related services; and

(d) Not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal debarment or agency.

§ 115.310 FHAP and the First Amendment.

None of the funding made available under the FHAP may be used to investigate or prosecute any activity engaged in by one or more persons, including the filing or maintaining of a non-frivolous legal action, that may be protected by the First Amendment of the United States Constitution. HUD guidance is available that sets forth the procedures HUD will follow when it is asked to accept and dual-file a case that may implicate the First Amendment of the United States Constitution.

§ 115.311 Testing.

The following requirements apply to testing activities funded under the FHAP:

(a) The testing must be done in accordance with a HUD-approved testing methodology;

(b) Testers must not have prior felony convictions or convictions of any crimes involving fraud or perjury.

(c) Testers must receive training or be experienced in testing procedures and techniques.

(d) Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(1) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(2) Be a relative or acquaintance of any party in a case;

(3) Have had any employment or other affiliation, within five years, with the person or organization to be tested; or

(4) Be a competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

Dated: April 5, 2007.

Kim Kendrick,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. E7–7087 Filed 4–13–07; 8:45 am]

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Federal Register

Monday,
April 16, 2007

Part III

The President

Proclamation 8123—National D.A.R.E. Day, 2007

Proclamation 8124—Thomas Jefferson Day, 2007

Proclamation 8125—National Volunteer Week, 2007

Federal Register
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Monday, April 16, 2007

Presidential Documents

Title 3—

The President

Proclamation 8123 of April 11, 2007

National D.A.R.E. Day, 2007

By the President of the United States of America

A Proclamation

Each year, Drug Abuse Resistance Education (D.A.R.E.) teaches millions of children across our country how to resist drugs and violence. On National D.A.R.E. Day, we honor the individuals who help our Nation's young people avoid the dangers of substance abuse and become productive citizens.

For more than two decades, D.A.R.E. programs have taught America's youth about the devastating effects of drug use and encouraged them to lead drug-free and violence-free lives of purpose. By opening the lines of communication between law enforcement, educators, and students, all those involved in D.A.R.E. help save lives and stop drug use before it starts.

My Administration is dedicated to fighting drug use throughout our country. The National Youth Anti-Drug Media Campaign is working with the Partnership for a Drug-Free America to teach our youth about resisting the pressure to use drugs. Additionally, the Helping America's Youth initiative, led by First Lady Laura Bush, encourages community partnerships that bring together families, faith-based and community organiza- tions, and schools to help make a positive impact on the lives of young people. Through the Strategic Prevention Framework and the Drug Free Communities Program, we are also helping communities to develop effective local strategies to prevent substance abuse. By working together, we can reduce illicit drug use and help every child realize the promise of our country.

Youth development programs like D.A.R.E. encourage our Nation's children to make healthy choices that lead to a better future. This year's National D.A.R.E. day is an opportunity to renew our commitment to building strong, drug-free communities.

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 April 12, 2007, as National D.A.R.E. Day. I urge all young people to make good decisions and call upon all Americans to recognize our collective responsibility to combat every form of drug abuse and to support all those who work to help our children avoid drug use and violence.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of April, 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. 07–1910
Filed 4–13–07; 11:49 am]
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Presidential Documents

Proclamation 8124 of April 11, 2007

Thomas Jefferson Day, 2007

By the President of the United States of America

A Proclamation

On Thomas Jefferson Day, we commemorate the birthday of a monumental figure whose place in our Nation's history will always be cherished. Thomas Jefferson was a scholar, statesman, author, architect, and patriot, and today we celebrate his many accomplishments and lasting legacy.

Thomas Jefferson continues to capture our imagination because our country still echoes his ideals. In 1776, as a young lawyer from Virginia, he drafted the Declaration of Independence for the Continental Congress and articulated the American creed. From that document was born a Nation with a message of hope—that all men are created equal and meant to be free. The words Jefferson penned were a bold statement of revolutionary principles, and they have lifted the lives of millions in America and around the world.

As the third President of the United States, Jefferson worked to realize the vision he held for our young democracy. He signed legislation in 1802 that established the United States Military Academy at West Point, New York, and began the great tradition of service academies that have contributed immensely to the defense of our freedom. He believed in the possibility of westward expansion, doubling the size of our Nation with the Louisiana Purchase and encouraging the Lewis and Clark Expedition to help open the unknown West for future development.

Thomas Jefferson served his fellow citizens in many other important roles, including Governor of Virginia, Secretary of State, and Ambassador to France. Yet, of his many accomplishments, Thomas Jefferson will always be remembered for his belief in liberty and in the ability of citizens to govern their own country and their own lives. As we celebrate his birthday, we are proud that the Nation he helped establish remains free, independent, and true to the ideals of our founding. Today, the United States of America is the world's foremost champion of liberty, moving forward with confidence and strength, and an example to the world of what free people can achieve.

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 of America, do hereby proclaim April 13, 2007, as Thomas Jefferson Day. I encourage all citizens to join in celebrating the achievements of this extraordinary American, reflecting on his words, and learning more about his influence on our history and ideals.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of April, 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. 07–1911
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Presidential Documents

Proclamation 8125 of April 11, 2007

National Volunteer Week, 2007

By the President of the United States of America

A Proclamation

During National Volunteer Week, we celebrate the spirit of service in America and honor those who demonstrate the great character of our country through acts of kindness, generosity, and compassion.

Throughout the history of America, volunteers and civic organizations have helped extend the blessings of liberty and opportunity to our citizens. People across our Nation answer the universal call to love their neighbor by giving their time, talents, and energy to comfort those in despair, support others in need, and change lives for the better. The optimism and determination of our country's volunteers reflect the true spirit and strength of our Nation.

My Administration encourages Americans to seize the opportunity to help someone in need. Individuals can find ways to serve in communities throughout our Nation by visiting the USA Freedom Corps website at volunteer.gov. The USA Freedom Corps works to rally America's armies of compassion and bring together individuals and faith-based and community organizations committed to volunteer service. These efforts are helping to build a culture of service, citizenship, and responsibility across our country.

America's volunteers demonstrate that the strength of our Nation lies in the hearts and souls of our citizens. During National Volunteer Week, we recognize all those who have touched the lives of others with their kindness and who have made our country a better place by helping their fellow Americans.

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 April 15 through April 21, 2007, as National Volunteer Week. I call upon all Americans to recognize and celebrate the important work that volunteers do every day throughout our country. I also encourage citizens to explore ways to help their neighbors in need and serve a cause greater than themselves.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of April, 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.

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LIST OF PUBLIC LAWS

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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.

S. 494/P.L. 110–17

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
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44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
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1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
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166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
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47 Parts:			
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48 Chapters:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

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[9] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.