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# Federal Register

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# Presidential Documents

**Title 3—**

## The President

**Presidential Determination No. 2007–16 of April 11, 2007**

## Presidential Determination on Waiver and Certification of Statutory Provisions Regarding the Palestine Liberation Organization Office

**Memorandum for the Secretary of State**

Pursuant to the authority and conditions contained in section 534(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006, Public Law 109–102, as carried forward by the Revised Continuing Appropriations Resolution, 2007, Public Law 110–5, I hereby determine and certify that it is important to the national security interests of the United States to waive the provisions of section 1003 of the Anti-Terrorism Act of 1987, Public Law 100–204.

This waiver shall be effective for a period of 6 months from the date hereof. You are hereby authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,
*Washington, April 11, 2007.*

[FR Doc. 07–2004
Filed 4–19–07; 8:45 am]
Billing code 4710–10–P

# Rules and Regulations

Federal Register
Vol. 72, No. 76
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 2 CFR Part 1880

### 14 CFR Parts 1260, 1265, and 1274

**RIN 2700–AD32**

## NASA Implementation of OMB Guidance on Nonprocurement Debarment and Suspension

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) is issuing a new Part 1880 on nonprocurement debarment and suspension in Title 2 of the Code of Federal Regulations (CFR). This new part is NASA's implementation of the Office of Management and Budget's (OMB) guidance provided at 2 CFR Part 180. In light of the new Part 1880, NASA is removing 14 CFR Part 1265 which contains the current NASA implementation of the government-wide common rule on nonprocurement debarment and suspension. The new part in 2 CFR serves the same purpose as the common rule in a simpler way. This final rule is part of OMB's initiative to streamline and consolidate all federal regulations on nonprocurement debarment and suspension. It is an administrative simplification that makes no substantive change in NASA policy or procedures for nonprocurement debarment and suspension.

**EFFECTIVE DATE:** This final rule is effective April 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jamiel C. Commodore, NASA, Office of Procurement, Contract Management Division; (202) 358–0302; e-mail: *Jamiel.C.Commodore@nasa.gov*.

**SUPPLEMENTARY INFORMATION:**

### A. Background

On May 11, 2004, OMB established Title 2 of the CFR with two subtitles (69 FR 26275). Subtitle A, ''Government-wide Grants and Agreements,'' contains OMB policy guidance to Federal agencies on grants and agreements. Subtitle B, ''Federal Agency Regulations for Grants and Agreements,'' contains Federal agencies' regulations implementing the OMB guidance, as it applies to grants and other financial assistance agreements and nonprocurement transactions.

On August 31, 2005, OMB published interim final guidance for government-wide nonprocurement debarment and suspension in the **Federal Register** (70 FR 51863). The guidance is located in Title 2 of the CFR as new Subtitle A, Chapter 1, Part 180. The interim final guidance updated previous OMB guidance that was issued pursuant to Executive Order 12549 of February 18, 1996, Debarment and Suspension, which gave government-wide effect to each agency's nonprocurement debarment and suspension actions. Section 6 of the Executive Order authorized OMB to issue guidance to Executive agencies on nonprocurement debarment and suspension, including provisions prescribing government-wide criteria and minimum due process. Section 3 directed Executive agencies to issue regulations implementing the Executive Order that are consistent with the OMB guidelines. On November 15, 2006, OMB published a final rule adopting the interim final guidance with changes (71 FR 66431).

In accordance with OMB's guidance, NASA is issuing this final rule to adopt and implement Title 2 CFR, Part 180. The rule includes the same NASA additions and clarifications to the common rule on nonprocurement debarment and suspension that were added to 14 CFR 1265 in November 2003 (68 FR 66573). As indicated, this latter coverage is now obsolete and is removed by this final rule.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*., because the rule involves an administrative adoption of a previously codified material in a new part of the CFR.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### List of Subjects

*2 CFR Part 1880*

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

*14 CFR Part 1260*

Grant programs—science and technology.

*14 CFR Part 1265*

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

*14 CFR Part 1274*

Grant programs—science and technology.

**Tom Luedtke,**

*Assistant Administrator for Procurement.*

■ Accordingly, 2 CFR and 14 CFR Parts 1260, 1265 and 1274 are amended as follows:

### Title 2—Grants and Agreements

■ 1. Add Chapter XVIII, consisting of Part 1880 to Subtitle B, to read as follows:

**CHAPTER 18—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

## PART 1880—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

1880.10 What does this part do?
1880.20 Does this part apply to me?
1880.30 What policies and procedures must I follow?

**Subpart A—General**

1880.137 Who in NASA may grant an exception to let an excluded person participate in a covered transaction?

**Subpart B—Covered Transactions**

1880.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

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1880.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

**Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions**

1880.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

**Subparts E–J—[Reserved]**

**Authority:** Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 42 U.S.C. 2473(c)(1).

#### § 1880.10 What does this part do?

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

#### § 1880.20 Does this part apply to me?

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

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

(b) Respondent in a NASA suspension or debarment action;

(c) NASA debarment or suspension official; or

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

#### § 1880.30 What policies and procedures must I follow?

The NASA policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (*i.e.*, 2 CFR 180.220) as supplemented by section 220 in this part (*i.e.*, § 1880.220). For any section of OMB guidance in Subparts A through I of 2 CFR 180 that has no corresponding section in this part, NASA policies and procedures are those in the OMB guidance.

### Subpart A—General

#### § 1880.137 Who in NASA may grant an exception to let an excluded person participate in a covered transaction?

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

### Subpart B—Covered Transactions

#### § 1880.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

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

### Subpart C—Responsibilities of Participants Regarding Transactions

#### § 1880.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

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

### Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

#### § 1880.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

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

### Subparts E–J—[Reserved]

## Title 14—Aeronautics and Space

### Chapter V—National Aeronautics and Space Administration

## PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

■ 2. The authority citation for 14 CFR part 1260 continues to read as follows:

**Authority:** 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, *et seq.*), and OMB Circular A–110.

■ 3. Amend § 1260.10 by revising paragraph (c)(1)(i) to read as follows:

#### § 1260.10 Proposals.

* * * * *

(c)(1) * * *

(i) A certification for debarment and suspension under the requirements of 2 CFR § 180.510.

* * * * *

■ 4. Amend § 1260.76 by revising paragraph (b) to read as follows:

#### § 1260.76 Termination and enforcement.

* * * * *

(b) The Director, Contract Management Division, shall provide to the General Services Administration information concerning all NASA debarments, suspensions, determinations of ineligibility, and voluntary exclusions of persons in accordance with 2 CFR 180.505.

* * * * *

■ 5. Amend § 1260.113 to read as follows:

#### § 1260.113 Debarment and suspension.

NASA and recipients shall comply with the nonprocurement debarment and suspension rule, 2 CFR 180 implementing Executive Orders 12549 and 12689, ''Debarment and Suspension''. This rule restricts contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

■ 6. Amend § 1260.144 by revising paragraph (d) to read as follows:

#### § 1260.144 Procurement procedures.

* * * * *

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by 2 CFR part 180, the implementation of Executive Orders 12549 and 12689, ''Debarment and Suspension.''

* * * * *

■ 7. Amend § 1260.162 by revising paragraph (d) to read as follows:

**§ 1260.162 Enforcement.**

* * * * *

(d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under Executive Orders 12549 and 12689 and 2 CFR part 180 (see § 1260.113).

## PART 1265—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

■ 8. The authority citation for 14 CFR part 1265 continues to read as follows:

**Authority:** Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 42 U.S.C. 2473(c)(1).

## PART 1265—[REMOVED]

■ 9. Remove Part 1265.

## PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

■ 10. The authority citation for 14 CFR part 1274 continues to read as follows:

**Authority:** 31 U.S.C. 6301 to 6308; 42 U.S.C. 2451, *et seq.*

■ 11. Amend § 1274.211 by revising paragraph (d)(2) to read as follows:

**§ 1274.211 Award procedures.**

* * * * *

(d) * * *

(2) Each new proposal shall include a certification for debarment and suspension under the requirements of 2 CFR 180.510 and 1260.117.

* * * * *

■ 12. Amend § 1274.505 by revising paragraph (d) to read as follows:

**§ 1274.505 Procurement procedures.**

* * * * *

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by 2 CFR part 180, the implementation of Executive Orders 12549 and 12689, ''Debarment and Suspension.''

* * * * *

■ 13. Revise § 1274.927 to read as follows:

**§ 1274.927 Debarment and Suspension and Drug-Free Workplace.**

**Debarment and Suspension and Drug-Free Workplace (APR 2007)**

NASA cooperative agreements are subject to the provisions of 2 CFR part 180, Government-wide Debarment and Suspension (Nonprocurement) and 14 CFR part 1267, Government-wide requirements for Drug-Free Workplace, unless excepted by 2 CFR 180.110 or 180.610.

[End of Provision]

[FR Doc. 07–1949 Filed 4–19–07; 8:45 am]

BILLING CODE 7510–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2006–26075; Directorate Identifier 2006–CE–55–AD; Amendment 39–15025; AD 2007–08–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Raytheon Aircraft Company (The Beech Aircraft Company and BEECH previously held Type Certificate Nos. 3A15, 3A16, 5A3, and A–777) Models 35–33, 35–A33, 35–B33, 35–C33, E33, F33, G33, 35–C33A, E33A, F33A, E33C, F33C, 35, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, V35B, 36, A36, A45 (T–34A, B45), D45 (T–34B), 95–55, 95–A55, 95–B55, 95–B55A, 95–B55B (T–42A), 95–C55, 95–C55A, D55, D55A, E55, E55A, 56TC, A56TC, 58, 95, B95, B95A, D95A, and E95 Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) that supersedes AD 72–22–01, which applies to certain Raytheon Aircraft Company (RAC) (The Beech Aircraft Company and BEECH previously held Type Certificate Nos. 3A15, 3A16, 5A3, and A–777) Models 33, 35, 36, 45, and 95 series airplanes. AD 72–22–01 currently requires you to determine if each uplock roller is of the greasible type (one having a drilled and grooved inner race), replace any nongreasible uplock roller (one having a solid inner race) with the greasible type before further flight, install hollow zerk-ended mounting bolts on the uplock rollers, and repetitively lubricate the uplock mechanism. Since we issued AD 72–22–01, there was a recent incident involving a RAC Model 95–B55B (T–42A) airplane where a seizure of the uplock rollers occurred. This malfunction of the uplock rollers is addressed in AD 72–22–01. Thus, the FAA has determined that the actions of AD 72–22–01 should also apply to certain serial numbers of the Model 95–B55B (T–42A) airplanes. Consequently, this AD retains all the actions of AD 72–22–01, adds those Model 95–B55B (T–42A) airplanes to the applicability of this AD, and lists the specific serial numbers. We are issuing this AD to decrease the possibility of gear-up landings caused by seizure of the uplock rollers.

**DATES:** This AD becomes effective on May 25, 2007.

On May 25, 2007 the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

**ADDRESSES:** To get the service information identified in this AD, contact Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. 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 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2006–26075; Directorate Identifier 2006–CE–55–AD.

**FOR FURTHER INFORMATION CONTACT:** Anthony Flores, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4174; facsimile: (316) 946–4107.

**SUPPLEMENTARY INFORMATION:**

### Discussion

On December 4, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to

certain RAC Models 33, 35, 36, 45, and 95 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 11, 2006 (71 FR 71494). The NPRM proposed to retain all the actions of AD 72–22–01, add those Model 95–B55B (T–42A) airplanes to the applicability of the proposed AD, and list the specific serial numbers.

**Comments**

We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

**Comment Issue No. 1: Change Compliance Time for AD 72–22–01**

Kenneth R. Pearce, Pearce Aircraft Services, Inc, writes that AD 72–22–01, which requires compliance within 300 hours time-in-service (TIS), should be changed to 100 hours TIS or the next annual inspection, whichever comes last. The 300-hour limit casts doubt on the urgent need for a flight safety action.

The FAA has reviewed and considered the commenter's comments and does not agree. The purpose of the proposed AD is not to change the requirements of AD 72–22–01, but to add another model to the applicability list. Service history has shown that the 300-hour inspection is adequate to remove the unsafe condition. Therefore, the FAA will maintain the current requirements from the NPRM.

We are not changing the final rule AD action based on this comment.

**Comment Issue No. 2: No Need for the Required Recurring 100-Hour TIS Lubrication**

Kenneth R. Pearce also writes that there is no need for the AD to require the recurring 100-hour TIS lubrication. He explains that maintenance of the uplock roller is thoroughly documented in the airplane maintenance manuals (AMMs), the 100-hour TIS/annual inspection checklist does list lubrication as required following the AMMs, and the Pilots Operating Handbook/FAA-approved Airplane Flight Manual directs checking the uplock roller for free rotation before flight.

In addition, Pearce also notes that the landing gear system is a complex assembly that is totally dependent on exacting adjustment of several switches, adjustment of actuator rods, strength of springs, and timely lubrication of all grease fittings with appropriate lubricants. If the maintenance is proper, the rollers will not restrict the landing gear movement because they touch the uplock block only in severe turbulence.

The FAA has reviewed and considered the commenter's comments and does not agree. The purpose of the proposed AD is not to change the requirements of AD 72–22–01, but to add another model to the applicability list. The commenter concurs with the proposed AD to include the model 95–B55B (T–42A) airplane. At the time of AD 72–22–01, it was necessary to address these repetitive lubrications through AD action. If a maintenance manual is revised to add procedures, that does not eliminate the need for the AD since the only way to ensure that all revised maintenance procedures are incorporated is through an AD. We have determined that the 100-hour TIS repetitive lubrication requirement is still necessary to address the unsafe condition.

We are not changing the final rule AD action based on this comment.

**Conclusion**

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Costs of Compliance**

We estimate that this AD affects 9,714 airplanes in the U.S. registry, including those airplanes affected by AD 72–22–01.

We estimate the following costs to do the actions to determine if each uplock roller is of the greasible type (one having a drilled and grooved inner race), replace any nongreasible uplock roller (one having a solid inner race) with the greasible type before further flight, install hollow zerk-ended mounting bolts on the uplock rollers, and initially lubricate the uplock mechanism:

| Labor cost | Parts cost | Total cost per airplane | Total cost on U.S. operators |
|---|---|---|---|
| 2 work-hours × $80 per hour = $160 | $30 | $190 | $1,845,660 |

We estimate the following costs for each lubrication of the uplock mechanism:

| Labor cost | Parts cost | Total cost per airplane | Total cost on U.S. operators |
|---|---|---|---|
| 1 work-hour × $80 per hour = $80 | None | $80 | $777,120 |

The estimated total cost on U.S. operators includes the cumulative costs associated with those airplanes affected by AD 72–22–01 and those airplanes being added in this AD.

**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 AD.

**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 other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–26075; Directorate Identifier 2006–CE–55–AD'' in your request.

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

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

**Adoption of the Amendment**

■ Accordingly, under the authority delegated to me by the Administrator, the 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. FAA amends § 39.13 by removing AD 72–22–01, Amendment 39–1544, and adding a new AD to read as follows:

**2007–08–08 Raytheon Aircraft Company (The Beech Aircraft Company and BEECH previously held Type Certificate Nos. 3A15, 3A16, 5A3, and A–777):** Amendment 39–15025; Docket No. FAA–2006–26075; Directorate Identifier 2006–CE–55–AD.

**Effective Date**

(a) This AD becomes effective on May 25, 2007.

**Affected ADs**

(b) This AD supersedes AD 72–22–01, Amendment 39–1544.

**Applicability**

(c) This AD applies to the following airplane models and serial numbers (SNs) that are certificated in any category:

(1) Group 1 (maintains the actions from AD 72–22–01):

| Model | SNs |
|---|---|
| (i) 35–33, 35–A33, 35–B33, 35–C33, E33, F33, and G33 | CD–1 through CD–1256. |
| (ii) 35–C33A, E33A, and F33A | CE–1 through CE–349. |
| (iii) E33C and F33C | CJ–1 through CJ–30. |
| (iv) 35, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B | D–1 through D–9287. |
| (v) 36 and A36 | E1 through E–283. |
| (vi) A45 (T–34A, B45) and D45 (T–34B) | All. |
| (vii) 95–55, 95–A55, 95–B55, and 95–B55A | TC–1 through TC–1402. |
| (viii) 95–C55, 95–C55A, D55, D55A, E55, and E55A | TE–1 through TE–846. |
| (ix) 56TC and A56TC | TG–1 through TG–94. |
| (x) 58 | TH–1 through TH–174. |
| (xi) 95, B95, B95A, D95A, and E95 | TD–2 through TD–721. |

(2) Group 2: Model 95–B55B (T–42A) airplanes, SNs TF–1 through TF–70.

**Unsafe Condition**

(d) This AD results from a recent incident involving a Raytheon Aircraft Company (RAC) Model 95–B55B (T–42A) airplane where a seizure of the uplock rollers occurred. We are issuing this AD to decrease the possibility of gear-up landings caused by seizure of the uplock rollers.

**Compliance**

(e) To address this problem, you must do the following, unless already done:

| Actions | Compliance | Procedures |
|---|---|---|
| (1) Determine if each uplock roller is of the greasible type (one having a drilled and grooved inner race). | (i) *For Group 1 airplanes:* Within 300 hours time-in-service (TIS) after October 25, 1972 (the effective date of AD 72–22–01).<br>(ii) *For Group 2 airplanes:* Within 300 hours TIS after May 25, 2007 (the effective date of this AD). | Follow Beechcraft Service Instructions No. 0448–211, Rev. I (undated), or Beechcraft Service Instructions No. 0448–211 (undated). |
| (2) Replace any nongreasible uplock roller (one having a solid inner race) with the greasible type. | (i) *For Group 1 airplanes:* Before further flight after the determination required by paragraph (e)(1)(i) of this AD.<br>(ii) *For Group 2 airplanes:* Before further flight after the determination required by paragraph (e)(1)(ii) of this AD. | Follow Beechcraft Service Instructions No. 0448–211, Rev. I (undated), or Beechcraft Service Instructions No. 0448–211 (undated). |
| (3) Install hollow zerk-ended mounting bolts on the uplock rollers. | (i) *For Group 1 airplanes:* Within 300 hours TIS after October 25, 1972 (the effective date of AD 72–22–01).<br>(ii) *For Group 2 airplanes:* Within 300 hours TIS after May 25, 2007 (the effective date of this AD). | Follow Beechcraft Service Instructions No. 0448–211, Rev. I (undated), or Beechcraft Service Instructions No. 0448–211 (undated). |

| Actions | Compliance | Procedures |
|---|---|---|
| (4) Lubricate the uplock mechanism ..... | (i) *For Group 1 airplanes:* Initially within 300 hours TIS after October 25, 1972 (the effective date of AD 72–22–01). Repetitively lubricate thereafter at intervals not to exceed 100 hours TIS.<br>(ii) *For Group 2 airplanes:* Initially within 300 hours TIS after May 25, 2007 the effective date of this AD. Repetitively lubricate thereafter at intervals not to exceed 100 hours TIS. | Follow Beechcraft Service Instructions No. 0448–211, Rev. I (undated), or Beechcraft Service Instructions No. 0448–211 (undated). |

**Alternative Methods of Compliance (AMOCs)**

(f) The Manager, Wichita Aircraft Certification Office, FAA, ATTN: Anthony Flores, Aerospace Engineer, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4174; facsimile: (316) 946–4107, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(g) AMOCs approved for AD 72–22–01 are approved for this AD.

**Material Incorporated by Reference**

(h) You must use Beechcraft Service Instructions No. 0448–211, Rev. I (undated), or Beechcraft Service Instructions No. 0448–211 (undated), to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Beechcraft Service Instructions No. 0448–211 (undated), and Beechcraft Service Instructions No. 0448–211, Rev. I (undated), under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; 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/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on April 6, 2007.

**Kim Smith,**

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

[FR Doc. E7–7048 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2007–27343; Directorate Identifier 2007–SW–05–AD; Amendment 39–15030; AD 2007–05–51]**

**RIN 2120–AA64**

## Airworthiness Directives; MD Helicopters Inc. (MDHI) Model MD600N Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2007–05–51, which was sent previously to all known U.S. owners and operators of MDHI Model MD600N helicopters by individual letters. This AD requires, before further flight, a visual and eddy current inspection of each lateral mixer output link assembly (mixer link) and replacing any cracked mixer link. This AD also requires performing an eddy current inspection on each mixer link before installing it on any helicopter. This amendment is prompted by the discovery of 3 cracked mixer links. The actions specified by this AD are intended to detect a crack in the mixer link, which could result in failure of the mixer link and subsequent loss of control of the helicopter.

**DATES:** Effective May 7, 2007, to all persons except those persons to whom it was made immediately effective by Emergency AD 2007–05–51, issued on February 17, 2007, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before June 19, 2007.

**ADDRESSES:** Use one of the following addresses to submit comments 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;
- *Fax:* (202) 493–2251; or
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this AD from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, Arizona 85215–9734, telephone 1–800–388–3378, fax 480–346–6813, or on the Web at *http://www.mdhelicopters.com.*

*Examining the Docket*

You may examine the docket that contains the AD, any comments, and other information on the Internet at *http://dms.dot.gov,* or in person at the Docket Management System (DMS) Docket Offices 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 the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

**FOR FURTHER INFORMATION CONTACT:** Jon Mowery, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5322, fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:** On February 17, 2007 we issued Emergency AD 2007–05–51 for MDHI Model MD600N helicopters, which requires, before further flight, a visual and eddy current inspection of each mixer link and replacing any cracked mixer link.

The Emergency AD also requires performing an eddy current inspection on each mixer link before installing it on any helicopter. That action was prompted by the discovery of a cracked mixer link, part number (P/N) 600N7636–1, on an in-service MDHI Model MD600N helicopter. Cracks were also found on two additional mixer links, P/N 600N7636–3, which were being held as spares. The cracks on all three mixer links run through the bearing end area of the mixer link and emanate from staking marks in the mixer link. Cracks in the mixer link, if not detected, could result in failure of the mixer link and subsequent loss of control of the helicopter.

We have reviewed MDHI Service Bulletin No. SB600N–044, dated February 16, 2007 (SB), which describes procedures for a one-time visual inspection and an eddy current inspection of the mixer link. The SB includes only P/Ns 600N7636–1, and –3 in its effectivity, however, because the exact cause of the cracks is unknown, and the –9 and –11 are similar designs, we have included them in the applicability of this AD. We are also requiring an eddy current inspection of each affected mixer link before installing it on any helicopter.

Since the unsafe condition described is likely to exist or develop on other MDHI Model MD600N helicopters of the same type design, we issued Emergency AD 2007–05–51 to detect a crack in the mixer link, which could result in failure of the mixer link and subsequent loss of control of the helicopter. The AD requires, before further flight, the following for each mixer link, P/N 600N7636–1, –3, –9, and –11:

- Removing each mixer link, and visually inspecting, with a bright light and a 10x or higher magnifying glass, the areas on the ends of the mixer link on both sides around the bearing bore for any crack,
- Performing an eddy current inspection of each mixer link in the bearing end areas, and
- Replacing any cracked mixer link with an airworthy mixer link on which an eddy current inspection has been performed.

The AD also requires performing an eddy current inspection on each mixer link before installing it on any helicopter.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the actions described previously are required before further flight, and this AD must be issued immediately.

A one-time flight permit is allowed for flying the helicopter to a location where the eddy current inspection can be performed, provided that no crack is found during the visual inspection required in paragraph (a) of this AD and that the helicopter's airspeed does not exceed 100 knots.

The requirements of this AD are interim actions; the manufacturer continues to investigate the cause of the cracks and, based on that investigation, we will determine either follow-on actions or a terminating action for the requirements of this AD.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on February 17, 2007 to all known U.S. owners and operators of MDHI Model MD600N helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

We estimate that this AD will affect 26 helicopters of U.S. registry. It will take approximately:

- 2 work hours to remove, inspect, and replace both mixer links on each helicopter,
- 5 work hours for an eddy current inspection of both mixer links,
- $80 per work hour, and
- $865 for a mixer link, if necessary.

Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $18,885, assuming that a visual and eddy current inspection are performed on each mixer link installed on a helicopter and that 5 of the 52 mixer links are cracked and need to be replaced.

**Comments Invited**

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–27343; Directorate Identifier 2007–SW–05–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. 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*.

**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 the 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 an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

**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.

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

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**2007–05–51 MD Helicopters Inc. (MDHI):** Amendment 39–15030. Docket No. FAA–2007–27343; Directorate Identifier 2007–SW–05–AD.

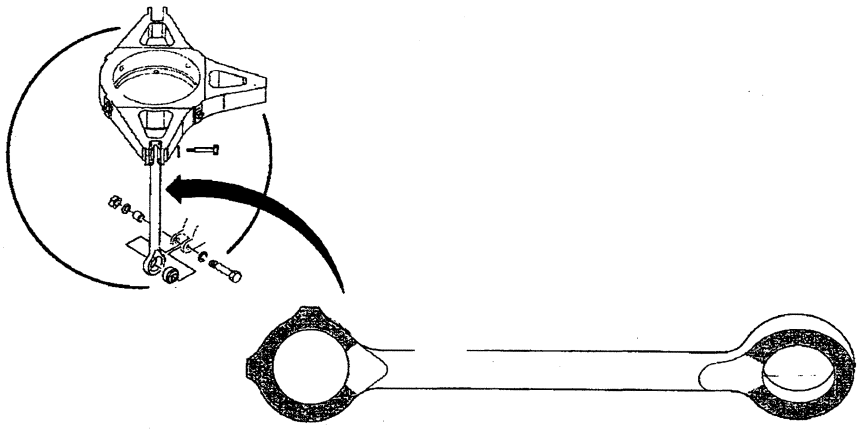
*Applicability:* Model MD600N helicopters, with a lateral mixer output link assembly (mixer link), part number (P/N) 600N7636–1, –3, –9, or –11 installed, certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To detect a crack in the mixer link, which could result in failure of the mixer link and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight:

(1) Remove each mixer link and visually inspect, with a bright light and a 10x or higher magnifying glass, the shaded areas around the bearing bore for any crack as depicted in the following Figure 1:



Bearings have been removed for clarity.

Figure 1

(2) Perform an eddy current inspection of each mixer link in the bearing end areas.

(3) Replace any cracked mixer link with an airworthy mixer link on which an eddy current inspection has been performed.

**Note:** MDHI Service Bulletin No. SB600N–044, dated February 16, 2007, pertains to the subject of this AD.

(b) Perform an eddy current inspection on each mixer link before installing it on any helicopter.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Los Angeles Aircraft Certification Office, FAA, ATTN: Jon Mowery, Aviation Safety Engineer, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5322, fax (562) 627–5210, for information about previously approved alternative methods of compliance.

(d) A one-time special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the eddy current inspection requirements of this AD can be accomplished provided that no crack is found during the visual inspection required in paragraph (a) of this AD and that the helicopter's airspeed does not exceed 100 knots.

(e) This amendment becomes effective on May 7, 2007, to all persons except those persons to whom it was made immediately effective by Emergency AD 2007–05–51, issued February 17, 2007, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on April 5, 2007.

**Mark R. Schilling,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. E7–7438 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2007–27786; Directorate Identifier 2007–CE–031–AD; Amendment 39–15031; AD 2007–09–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Cessna Aircraft Company Models 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, and 182R Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Model 182 series airplanes that are equipped with Air Plains Services Corporation Supplemental Type Certificate (STC) SA00152WI. This AD

requires you to disconnect or remove the electrical cable between the forward ground power relay and the starter relay, install a placard, inspect the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump for chafing, and replace the fuel line if chafing is found. This AD results from a report of an in-flight and post-landing engine compartment fire. We are issuing this AD to detect and correct interference between the ground power electrical cable, the fuel strainer cable, and the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump. This condition could lead to a fire in the engine compartment.

**DATES:** This AD becomes effective on April 25, 2007.

On April 25, 2007 the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive any comments on this AD by June 19, 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.
- *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.

To get the service information identified in this AD, contact Air Plains Services Corporation, P.O. Box 541, Wellington, KS 67152; phone: 620–326–8904; Internet: *http://www.airplains.com.*

To view the comments to this AD, go to *http://dms.dot.gov.* The docket number is FAA–2007–27786; Directorate Identifier 2007–CE–031–AD.

**FOR FURTHER INFORMATION CONTACT:** Trenton Shepherd, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4143; fax: (316) 946–4107.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We received a report of a Cessna Model 182Q airplane with Air Plains Services Corporation STC SA00152WI installed that had an in-flight and post-landing fire. The preliminary finding, per the National Transportation Safety Board (NTSB), is that the electrical cable between the forward ground power relay and the starter relay chafed on either the fuel strainer control or on the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump. The cable shorted, welded the fuel strainer control cable to the firewall, and burned the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump.

This condition, if not corrected, could result in a fuel leak and fire in the engine compartment.

## Relevant Service Information

We reviewed Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007. The service information describes procedures for the following actions:

- Disconnecting or removing the electrical cable between the forward ground power relay and the starter relay;
- Repositioning the fuel strainer cable;
- Inspecting the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump for chafing; and
- Adjusting the position of the fuel line fitting at the engine-driven fuel pump.

## FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires you to disconnect or remove the ground power electrical cable between the forward ground power relay and the starter relay, install a placard, inspect the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump for chafing, and replace the fuel line if chafing is found.

This AD is considered interim action. The FAA is working with the STC holder on developing a design change for the ground power electrical cable. If a modification is developed, the FAA will evaluate it and determine whether future rulemaking action is necessary to address this condition.

In preparing this rule, we contacted type clubs and aircraft operators to get technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included a discussion of any information that may have influenced this action in the rulemaking docket.

## FAA's Determination of the Effective Date

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

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number ''FAA–2007–27786; Directorate Identifier 2007–CE–031–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

We determined that this AD will not have federalism implications under

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

### Examining the AD Docket

You may examine the AD docket that contains the 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, Incorporation by reference, Safety.

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2007–09–01 Cessna Aircraft Company:** Amendment 39–15031; Docket No. FAA–2007–27786; Directorate Identifier 2007–CE–031–AD.

#### Effective Date

(a) This AD becomes effective on April 25, 2007.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Models 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, and 182R airplanes, all serial numbers, that:

(i) Have Air Plains Services Corporation Supplemental Type Certificate (STC) SA00152WI installed;

(ii) Have a ground power receptacle mounted on the firewall (forward ground power receptacle); and

(iii) Are certificated in any category.

#### Unsafe Condition

(d) This AD results from a report of an in-flight and post-landing engine compartment fire. We are issuing this AD to detect and correct interference between the ground power electrical cable, the fuel strainer cable, and the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump. This condition could lead to a fire in the engine compartment.

#### Compliance

(e) To address this problem, you must do the following, unless already done:

| Actions | Compliance | Procedures |
|---|---|---|
| (1) Remove power to the ground power electrical cable by: | Within 15 days after April 25, 2007 (the effective date of this AD). | Follow Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007.<br>(i) Disconnecting the electrical cable at the forward ground power relay and the starter relay, or<br>(ii) Removing the electrical cable between the forward ground power relay and the starter relay. |
| (2) Fabricate and install a placard as close as possible to the forward ground power receptacle that incorporates the following words (using at least 1/8-inch red letters on a white background and a red border): ''GROUND POWER RECEPTACLE IS INOPERATIVE.'' | Before further flight after power to the ground power cable is removed per paragraph (e)(1) of this AD. | The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may fabricate and install the placard. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). |
| (3) Reposition the fuel strainer cable ..... | Within 15 days after April 25, 2007 (the effective date of this AD). | Follow Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007. |
| (4) Visually inspect the fuel line from the auxiliary electric fuel pump to the engine-driven fuel pump for chafing. | Within 15 days after April 25, 2007 (the effective date of this AD). | Follow Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007. |
| (5) If chafing at or beyond the limits defined in the Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007, is found in the inspection required by paragraph (e)(4) of this AD, replace the fuel line between the auxiliary electric fuel pump and the engine-driven fuel pump with a new hose part number AE3663161G0190 (or FAA-approved equivalent) and remove the ground power electrical cable per (e)(1)(ii) of this AD. | Before further flight after any inspection where evidence of chafing is found. | Follow Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007. |

| Actions | Compliance | Procedures |
|---|---|---|
| (6) Adjust the position of the fuel line fitting at the engine-driven fuel pump. | Within 15 days after April 25, 2007 (the effective date of this AD). | Follow Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007. |

**Alternative Methods of Compliance (AMOCs)**

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, ATTN: Trenton Shepherd, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4143; 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.

**Material Incorporated by Reference**

(g) You must use Air Plains Services Corporation Mandatory Service Bulletin APS–07–01–01, dated March 5, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Air Plains Services Corporation, P.O. Box 541, Wellington, KS 67152; phone: 620–326–8904; Internet: *http://www.airplains.com.*

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; 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/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on April 13, 2007.

**Charles L. Smalley,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7–7519 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 121, 135

**[Docket No.: FAA–2007–26969; Amendment Nos. 121–331 and 135–109]**

**RIN 2120–AI99**

## Change in Extinguishing Agent Container Requirements

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action aligns the operational and certification safety requirements regarding over-pressurization of airplane extinguishing agent containers or fire bottles to prevent bursting; and it removes an obsolete section reference from part 135. This action eliminates the requirement for an over-pressurized fire bottle to discharge extinguishing agent outside an airplane to prevent bursting, because newer non-corrosive extinguishing agents can now be discharged inside an airplane without degrading an airframe.

**DATES:** Effective June 4, 2007.

Comments for inclusion in the Rules Docket must be received on or before May 21, 2007.

**ADDRESSES:** Commenting on this Direct Final Rule. You may send comments identified by Docket Number FAA–2007–26969, using any of the following methods:

- *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:* 1–202–493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Joel Schlossberg, Aircraft Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202–267–8908); facsimile: (202–267–5115); e-mail: *joel.schlossberg@faa.gov.*

**SUPPLEMENTARY INFORMATION:** Later in this preamble under the Additional Information section, we discuss how you can comment on this direct final rule and how we will handle your comments. Included in this discussion is related information about the docket. We also discuss how you can get a copy of this direct final rule and any related rulemaking documents.

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing:

- Minimum standards required in the interest of safety for the design and performance of aircraft; and
- Regulations for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security.

This regulation is within the scope of that authority because it prescribes:

- Standards for the safe operation of transport category airplanes; and
- Practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security.

### Background

Since at least 1949, the FAA has required fire extinguishing containers (fire bottle) to have a pressure relief line to prevent a container from bursting in case of excessive internal pressure. This pressure relief line would discharge the extinguishing agent from the fire bottle. Historically, fire extinguishing agents were corrosive materials that could degrade an airframe. Therefore, in both airplane certification and operational rules, the FAA required any discharge for pressure relief to be only outside the airplane.

Eventually, industry developed non-corrosive extinguishing agents. Therefore, on March 17, 1977, the FAA published in the **Federal Register** a final rule [1] that amended the airplane certification rules in 14 CFR 25.1199 to adopt a performance standard. This rule changed the airplane certification standards, to require airplane manufacturers to place pressure relief discharge lines in such a way to not damage an airplane. See 40 FR 21866, 21871. Thus, the pressure relief discharge line could be located either

[1] Airworthiness Review Program—Amendment No. 4: Powerplant Amendments (42 FR 15034).

inside or outside the airplane, as long as a discharge would not damage the airplane.

However, the corresponding operational requirements in § 121.267, and by reference in § 135.169, were not changed in 1977 and therefore only allow for the termination of the fire bottle discharge line outside the airplane. As a result of this discrepancy, in a request dated July 5, 2006, Aeronautical Charters, Inc. submitted a petition for exemption [2] from § 121.267 for their part 135 airplane model (Citation 550). The difference between the certification and operational requirements has caused confusion, which is likely to result in more exemption requests. The FAA proceeds with this direct final rule to align the certification and operational requirements. This rule maintains safety because the reason for the original limitation (outside discharge) is no longer a concern with the development and use of non-corrosive extinguishing agents.

This direct final rule also removes an obsolete section reference from part 135. In a December 20, 1995 rulemaking,[3] the FAA removed and reserved § 121.213, which contained special airworthiness requirements. We included those requirements in § 121.211 (Applicability). However, we inadvertently left a reference to § 121.213 in § 135.169(a). This direct final rule amends part 135 to remove the reference to § 121.213.

**The Direct Final Rule Process**

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, we are issuing it as a direct final rule. We believe we will not get adverse comments because this action will—

- Correct a discrepancy in the certification and operational rules that could potentially ground affected airplanes.
- Eliminate the need for operators to petition the FAA for an exemption from the fire bottle requirements in § 121.267.
- Not place any new requirements or additional burden on affected operators.

Unless we receive a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** that indicates we received no adverse or negative comments and confirms the date the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, we will publish a document withdrawing the direct final rule in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

**Paperwork Reduction Act**

There are no current or new requirements for information collection associated with these amendments.

**International Compatibility**

The FAA has reviewed corresponding International Civil Aviation Organization International Standards and Recommended practices and similar regulations of foreign authorities, where they exist, and has identified no differences in these proposed amendments and the foreign regulations.

**Economic Evaluation, Regulatory Flexibility Act, Trade Impact Assessment, and Unfunded Mandates Assessment**

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows: This action aligns the operational and certification safety requirements regarding over-pressurization of airplane extinguishing agent containers or fire bottles to prevent bursting; and it removes an obsolete section reference from part 135. This action eliminates the requirement for an over-pressurized fire bottle to discharge extinguishing agent outside an airplane to prevent bursting, because newer non-corrosive extinguishing agents can now be discharged inside an airplane without degrading an airframe.

**Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule aligns the operational and certification safety requirements regarding over-pressurization of airplane extinguishing agent containers

[2] Docket FAA–2006–25325.

[3] Commuter Operations and General Certification and Operations Requirements; Air Carrier and Commercial Operator Training Programs; Final Rules (60 FR 65832).

or fire bottles to prevent bursting; and it removes an obsolete section reference from part 135. Its economic impact is minimal. Therefore, as the FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

**Trade Impact Assessment**

The Trade Agreements Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and has determined that it will have the same cost relieving impact on domestic and international entities and thus has a neutral trade impact.

**Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation). The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II do not apply to this regulation.

**Executive Order 13132, Federalism**

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

**Environmental Analysis**

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312 and involves no extraordinary circumstances.

**Regulations that Significantly Affect Energy Supply, Distribution, or Use**

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

**Additional Information**

*Commenting on this Direct Final Rule*

You may send comments identified by Docket Number FAA–2007–26969, using any of the following methods:

- *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:* 1–202–493–2251.
- *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.

*Availability of Rulemaking Documents*

You can get an electronic copy using the Internet by:

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

2. Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies/;* or

3. Accessing the Government Printing Office's web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

**Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

**List of Subjects**

*14 CFR Part 121*

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

*14 CFR Part 135*

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

**The Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations as follows:

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

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

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

■ 2. Section 121.267 is revised to read as follows:

**§ 121.267 Extinguishing agent container pressure relief mechanism.**

(a) Extinguishing agent containers must be provided with a pressure relief mechanism to prevent bursting of the container because of excessive internal pressures. The discharge line from the relief connection must be installed in a manner so it can be inspected from the ground. Depending upon whether the discharge line terminates outside or inside the airplane, the certificate holder must accomplish the following inspections pre-departure:

(1) *The discharge line terminates outside the airplane.* As part of the pre-departure check, visually inspect the

pressure indicator at the end of the discharge line to confirm that the container has not discharged.

(2) *The discharge line terminates inside the airplane.* As part of a pre-departure check, visually inspect the pressure indicator for the container for loss of pressure within the container.

(b) The certificate holder also must ensure that only non-corrosive extinguishing agents are used in systems where the pressure discharge line terminates inside the airplane.

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

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

**Authority:** 49 U.S.C. 106(g), 41706, 44113, 44101, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 4. Amend § 135.169 by revising paragraph (a) to read as follows:

**§ 135.169 Additional airworthiness requirements.**

(a) Except for commuter category airplanes, no person may operate a large airplane unless it meets the additional airworthiness requirements of §§ 121.215 through 121.283 and 121.307 of this chapter.

* * * * *

**Marion C. Blakey,**

*Administrator.*

[FR Doc. 07–1937 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 520

### Oral Dosage Form New Animal Drugs; Clindamycin Solution

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by First Priority, Inc. The ANADA provides for the veterinary prescription use of clindamycin hydrochloride oral solution in dogs and cats for the treatment of various infections due to susceptible bacterial pathogens.

**DATES:** This rule is effective April 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** First Priority, Inc., 1585 Todd Farm Dr., Elgin, IL 60123, filed ANADA 200–398 for the veterinary prescription use of Clindamycin Hydrochloride Oral Drops in dogs and cats for the treatment of various infections due to susceptible bacterial pathogens. First Priority, Inc.'s Clindamycin Hydrochloride Oral Drops is approved as a generic copy of ANTIROBE AQUADROPS Liquid, sponsored by Pharmacia & Upjohn Co., a Division of Pfizer, Inc., under NADA 135–940. The ANADA is approved as of March 19, 2007, and 21 CFR 520.447 is amended to reflect the approval.

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

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

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

**List of Subjects in 21 CFR Part 520**

Animal drugs.

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

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 520.447 revise paragraph (b) to read as follows:

**§ 520.447 Clindamycin Solution.**

* * * * *

(b) *Sponsors.* See Nos. 000009, 051311, 058829, and 059130 in § 510.600(c) of this chapter.

* * * * *

Dated: April 9, 2007.

**Bernadette Dunham,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. E7–7472 Filed 4–19–07; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 522

### Oral Dosage Form New Animal Drugs; Dexmedetomidine; Technical Amendment

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

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

**SUMMARY:** The Food and Drug Administration (FDA) is amending a final rule that appeared in the **Federal Register** of January 4, 2007 (72 FR 263), revising the animal drug regulations to reflect approval of an original new animal drug application (NADA). The document incorrectly listed the amount of drug per milliliter of dexmedetomidine hydrochloride injectable solution. This action is being taken to improve the accuracy of the regulations.

**DATES:** This rule is effective April 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–267–9019, e-mail: *george.haibel@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** FDA has discovered that an error has been incorporated into the agency's regulations for 21 CFR part 522. This document corrects that error. Publication of this document constitutes final action under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because this amendment is nonsubstantive.

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

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs, 21 CFR part 522 is amended as follows:

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

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

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

■ 2. In § 522.558, paragraph (a) is revised to read as follows:

**§ 522.558 Dexmedetomidine.**

(a) *Specifications.* Each milliliter of solution contains 0.5 milligram (mg) of dexmedetomidine hydrochloride.

* * * * *

Dated: April 13, 2007.

**Bernadette Dunham,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. E7–7594 Filed 4–19–07; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 556 and 558

### New Animal Drugs; Florfenicol

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for the use of florfenicol by veterinary feed directive (VFD) for the control of mortality in freshwater-reared salmonids due to coldwater disease associated with *Flavobacterium psychrophilum*.

**DATES:** This rule is effective April 20, 2007.

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

**SUPPLEMENTARY INFORMATION:** Schering-Plough Animal Health Corp., 556 Morris Ave., Summit, NJ 07901, filed a supplement to NADA 141–246 that provides for use of AQUAFLOR (florfenicol), a type A medicated article, by VFD to formulate type C medicated feed for the control of mortality in freshwater-reared salmonids due to coldwater disease associated with *F. psychrophilum*. The supplemental application is approved as of March 19, 2007, and the regulations are amended in 21 CFR 556.283, 558.4, and 558.261 to reflect the approval.

The single VFD order form for florfenicol includes both catfish and freshwater-reared salmonid indications because each comprises multiple species and is approved in each for use under similar directions and conditions of use.

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

Under section 573(c) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360ccc-2), this supplemental approval qualifies for 7 years of exclusive marketing rights beginning March 19, 2007, because the new animal drug has been declared a designated new animal drug by FDA under section 573(a) of the act.

The agency has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

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

**List of Subjects**

*21 CFR Part 556*

Animal drugs, Foods.

*21 CFR Part 558*

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

## PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 1. The authority citation for 21 CFR part 556 continues to read as follows:

**Authority:** 21 U.S.C. 342, 360b, 371.

■ 2. In § 556.283, add paragraph (b)(4) to read as follows:

**§ 556.283 Florfenicol.**

* * * * *

(b) * * *

(4) *Salmonids.* The tolerance for florfenicol amine (the marker residue) in muscle/skin (the target tissues) is 1 ppm.

* * * * *

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

■ 4. In paragraph (d) of § 558.4, in the ''Category II'' table, revise the entry in alphabetical order for ''Florfenicol'' to read as follows:

**§ 558.4 Requirement of a medicated feed mill license.**

* * * * *

(d) * * *

CATEGORY II

| Drug | Assay limits percent [1] Type A | Type B maximum (100x) | Assay limits percent [1] Type B/C [2] |
|---|---|---|---|
| * * * | * | * | * * |
| Florfenicol | 90–110 | Swine feed: n/a<br>Catfish feed: n/a<br>Salmonid feed: n/a | Swine feed: 85–115<br>Catfish feed: 80–110<br>Salmonid feed: 80–110 |

CATEGORY II—Continued

| Drug | Assay limits percent [1] Type A | Type B maximum (100x) | Assay limits percent [1] Type B/C [2] |
|---|---|---|---|
| * * * | * | * | * * * |

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

* * * * *

■ 5. In § 558.261, revise paragraph (a)(2), paragraph (c)(2)(i), and the first two sentences of paragraph (e)(2)(iii); and add new paragraph (e)(3) to read as follows:

**§ 558.261 Florfenicol.**

(a) * * *

(2) 500 grams per kilogram for use as in paragraphs (e)(2) and (e)(3) of this section.

* * * * *

(c) * * *

(2) * * *

(i) For catfish and freshwater-reared salmonids, must not exceed 15 days from the date of issuance;

* * * * *

(e) * * *

(2) * * *

(iii) * * * Feed containing florfenicol shall not be fed for more than 10 days. Following administration, fish should be reevaluated by a licensed veterinarian before initiating a further course of therapy. * * *

(3) *Freshwater-reared salmonids*—(i) *Amount.* 10 milligrams florfenicol per kilogram of fish daily for 10 consecutive days.

(ii) *Indications for use.* For the control of mortality due to coldwater disease associated with *Flavobacterium psychrophilum.*

(iii) *Limitations.* Feed containing florfenicol shall not be fed for more than 10 days. Following administration, fish should be reevaluated by a licensed veterinarian before initiating a further course of therapy. The effects of florfenicol on reproductive performance have not been determined. Feeds containing florfenicol must be withdrawn 15 days prior to slaughter.

Dated: April 9, 2007.

**Bernadette Dunham,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. E7–7475 Filed 4–19–07; 8:45 am]

**BILLING CODE 4160–01–S**

## BROADCASTING BOARD OF GOVERNORS

### 22 CFR Part 504

### Testimony by BBG Employees, Production of Official Records, and Disclosure of Official Information In Legal Proceedings

**AGENCY:** Broadcasting Board of Governors.

**ACTION:** Final rule.

**SUMMARY:** The Broadcasting Board of Governors (BBG) is publishing as a final rule a regulation governing access to BBG information and records in connection with legal proceedings in which neither the United States nor the BBG is a party. The proposed rule was published for comment in 72 FR 10954 dated March 12, 2007. The BBG received no responses to the proposed rule. The final rule and corresponding regulation establishes guidelines for use in determining whether BBG employees are permitted to testify or to provide records relating to their official duties and procedures that requesters must follow when making demands on, or requests to, a BBG employee for official documents or to provide testimony.

**DATES:** The effective date of the regulation is April 23, 2007.

**FOR FURTHER INFORMATION CONTACT:** Christopher Veith, Assistant General Counsel, Broadcasting Board of Governors, 330 Independence Ave., SW., Washington, DC 20237, phone: (202) 203–4550 or fax at (202) 203–4585.

**SUPPLEMENTARY INFORMATION:** Briefly, the final rule prohibits disclosure of nonpublic official records or testimony by the BBG's employees, as defined in Part 504.4, unless there is compliance with the rule. The final rule sets out the information that requesters must provide and the factors that the BBG will consider in making determinations in response to requests for testimony or the production of documents.

The final rule applies to a range of matters in any legal proceeding in which the BBG is not a named party and applies to current and former BBG employees. The final rule will ensure a more efficient use of the BBG's resources, minimize the possibility of involving the BBG in issues unrelated to its responsibilities, promote uniformity in responding to subpoenas and like requests, and maintain the impartiality of the BBG in matters that are in dispute between other parties. It will also serve the BBG's interest in protecting sensitive, confidential, and privileged information and records that are generated in fulfillment of the BBG's statutory responsibilities.

The final rule is internal and procedural rather than substantive. It does not create a right to obtain official records or the official testimony of a BBG employee nor does it create any additional right or privilege not already available to the BBG to deny any demand or request for testimony or documents. Failure to comply with the procedures set out in these regulations would be a basis for denying a demand or request submitted to the BBG.

**List of Subjects in 22 CFR Part 504**

Administrative practice and procedure.

■ For the reasons stated in the preamble, the Broadcasting Board of Governors amends 22 CFR, Chapter V, by adding part 504, as follows:

## PART 504—TESTIMONY BY BBG EMPLOYEES, PRODUCTION OF OFFICIAL RECORDS, AND DISCLOSURE OF OFFICIAL INFORMATION IN LEGAL PROCEEDINGS

**Subpart A—General Provisions**

Sec.

504.1 Scope and purpose.
504.2 Applicability.
504.3 Definitions.

**Subpart B—Demands or Requests for Testimony and Production of Documents**

504.4 General prohibition.
504.5 Factors the BBG will consider.
504.6 Filing requirements for litigants seeking documents or testimony.
504.7 Service of requests or demands.
504.8 Processing requests or demands.
504.9 Final determinations.
504.10 Restrictions that apply to testimony.
504.11 Restrictions that apply to released records.

504.12 Procedure when a decision is not made prior to the time a response is required.
504.13 Procedure in the event of an adverse ruling.

**Subpart C—Schedule of Fees**

504.14 Fees.

**Subpart D—Penalties**

504.15 Penalties

**Authority:** 22 U.S.C. 6204.

## Subpart A—General Provisions

### § 504.1 Scope and purpose.

(a) These regulations in this subpart establish policy, assign responsibilities and prescribe procedures with respect to:

(1) The production or disclosure of official information or records by BBG employees, and

(2) The testimony of current and former BBG employees, relating to official information, official duties, or the BBG's records, in connection with federal or state litigation in which the BBG is not a party.

(b) The BBG intends these provisions to:

(1) Conserve the time of BBG employees for conducting official business;

(2) Minimize the involvement of BBG employees in issues unrelated to BBG's mission;

(3) Maintain the impartiality of BBG employees in disputes between private litigants; and

(4) Protect sensitive, confidential information and the deliberative processes of the BBG.

(c) In providing for these requirements, the BBG does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of BBG. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

### § 504.2 Applicability.

This part applies to demands and requests to current and former employees for factual or expert testimony relating to official information or official duties or for production of official records or information, in legal proceedings in which the BBG is not a named party. This part does not apply to:

(a) Demands upon or requests for a BBG employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of the BBG;

(b) Demands upon or requests for a former BBG employee to testify as to matters in which the former employee was not directly or materially involved while at the BBG;

(c) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; or

(d) Congressional demands and requests for testimony, records or information.

### § 504. 3 Definitions.

The following definitions apply to this part:

(a) Demand means an order, subpoena, or other command of a court or other competent authority for the production, disclosure, or release of records or for the appearance and testimony of a BBG employee in a legal proceeding.

(b) General Counsel means the General Counsel of the BBG or a person to whom the General Counsel has delegated authority under this part.

(c) Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

(d) BBG means the Broadcasting Board of Governors.

(e) BBG employee means:

(1) Any current or former employee of the BBG.

(2) This definition does not include persons who are no longer employed by the BBG and who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with the BBG.

(f) Records or official records and information means all information in the custody and control of the BBG, relating to information in the custody and control of the BBG, or acquired by a BBG employee in the performance of his or her official duties or because of his or her official status, while the individual was employed by the BBG.

(g) Request means any informal request, by whatever method, for the production of records and information or for testimony which has not been ordered by a court or other competent authority.

(h) Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

## Subpart B—Demands or Requests for Testimony and Production of Documents

### § 504.4 General prohibition.

(a) In any United States federal, state, and local proceeding or administrative action, or proceeding or administrative action conducted in a foreign country, in which the BBG is not a party, no BBG employee shall, in response to a demand or request for official records or information, furnish or produce documents or testimony as to any material contained in BBG files, any information relating to or based upon material contained in BBG files, or any information or material acquired as part of the performance of that person's official duties (or because of that person's official status) without the prior written approval of the General Counsel.

(b) Whenever a request or demand for information is made upon a BBG employee, the employee, wherever located, shall immediately prepare a report that specifically describes the testimony or documents sought and immediately notify the General Counsel. The BBG employee shall then await instructions from the General Counsel concerning a response to the request or demand. The failure of any BBG employee to follow the procedures specified in this subpart neither creates nor confers any rights, privileges, or benefits on any person or party.

### § 504.5 Factors the BBG will consider.

The General Counsel, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the General Counsel may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(c) Allowing such testimony or production of records would assist or hinder the BBG in performing its statutory duties;

(d) Allowing such testimony or production of records would be in the best interest of the BBG or the United States;

(e) The records or testimony can be obtained from other sources;

(f) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the

case or matter in which the demand or request arose;

(g) Disclosure would violate a statute, Executive Order or regulation;

(h) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential or financial information, otherwise protected information, or information which would otherwise be inappropriate for release;

(i) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceeding, or compromise constitutional rights or national security interests;

(j) Disclosure would result in the BBG appearing to favor one litigant over another;

(k) The request was served before the demand;

(l) A substantial Government interest is implicated;

(m) The demand or request is within the authority of the party making it; and

(n) The demand or request is sufficiently specific to be answered and/or can be limited to information to that which would be consistent with the factors specified herein.

**§ 504.6 Filing requirements for litigants seeking documents or testimony.**

A litigant must comply with the following requirements when filing a request for official records and information or testimony under this subpart. A request should be filed before a demand.

(a) The request must be in writing and must be submitted to the General Counsel.

(b) The written request must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs any need to maintain the confidentiality of the information and outweighs the burden on the BBG to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than an BBG employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, and a showing that no document could be provided and used in lieu of testimony;

(7) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties will require for each BBG employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The BBG reserves the right to require additional information to complete the request where appropriate.

(d) The request should be submitted at least 30 days before the date that records or testimony is required. Requests submitted in less than 30 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with the request.

(f) The request should state that the requester will provide a copy of the BBG employee's statement free of charge and that the requester will permit the BBG to have a representative present during the employee's testimony.

**§ 504.7 Service of requests or demands.**

Requests or demands for official records or information or testimony under this Subpart must be served on the General Counsel, BBG, 330 Independence Ave., SW., Washington, DC 20237 by mail or fax at (202) 203–4585 and clearly marked ''Part 504—Request for Testimony or Official Records in Legal Proceedings.''

**§ 504.8 Processing requests or demands.**

(a) After receiving service of a request or demand for testimony, the General Counsel will review the request and, in accordance with the provisions of this Subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or produce official records and information.

(b) Absent exigent circumstances, the BBG will issue a determination within 30 days from the date the request is received.

(c) The General Counsel may grant a waiver of any procedure described by this Subpart where a waiver is considered necessary to promote a significant interest of the BBG or the United States, or for other good cause.

(d) Certification (authentication) of copies of records. The BBG may certify that records are true copies in order to facilitate their use as evidence. If a requester seeks certification, the requester must request certified copies from the BBG at least 30 days before the date they will be needed. The request should be sent to the BBG General Counsel.

**§ 504.9 Final determinations.**

The General Counsel makes the final determination on demands or requests to employees for production of official records and information or testimony in litigation in which the BBG is not a party. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requester and, when appropriate, the court or other competent authority of the final determination, the reasons for the grant or denial of the request, and any conditions that the General Counsel may impose on the release of records or information, or on the testimony of an BBG employee. The General Counsel's decision exhausts administrative remedies for discovery of the information.

**§ 504.10 Restrictions that apply to testimony.**

(a) The General Counsel may impose conditions or restrictions on the testimony of BBG employees including, for example:

(1) Limiting the areas of testimony;

(2) Requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal;

(3) Requiring that the transcript will be used or made available only in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) The BBG may offer the employee's written declaration in lieu of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee shall not:

(1) Disclose confidential or privileged information; or

(2) For a current BBG employee, testify as an expert or opinion witness

with regard to any matter arising out of the employee's official duties or the functions of the BBG unless testimony is being given on behalf of the United States (see also 5 CFR 2635.805).

(d) The scheduling of an employee's testimony, including the amount of time that the employee will be made available for testimony, will be subject to the BBG's approval.

**§ 504.11 Restrictions that apply to released records.**

(a) The General Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, the BBG may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original BBG records may be presented for examination in response to a request, but they may not be presented as evidence or otherwise used in a manner by which they could lose their identity as official BBG records, nor may they be marked or altered. In lieu of the original records, certified copies may be presented for evidentiary purposes.

**§ 504.12 Procedure when a decision is not made prior to the time a response is required.**

If a response to a demand or request is required before the General Counsel can make the determination referred to in § 504.9, the General Counsel, when necessary, will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the request is being reviewed, provide an estimate as to when a decision will be made, and seek a stay of the demand or request pending a final determination.

**§ 504.13 Procedure in the event of an adverse ruling.**

If the court or other competent authority fails to stay a demand or request, the employee upon whom the demand or request is made, unless otherwise advised by the General Counsel, will appear, if necessary, at the stated time and place, produce a copy of this part, state that the employee has been advised by counsel not to provide the requested testimony or produce documents, and respectfully decline to comply with the demand or request, citing *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

## Subpart C—Schedule of Fees

**§ 504.14 Fees.**

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to the BBG.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowances, and benefits). Fees for duplication will be the same as those charged by the BBG in its Freedom of Information Act regulations at 22 CFR Part 503.

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear and on 28 U.S.C. 1821, as applicable. Such fees will include cost of time spent by the witness to prepare for testimony, in travel and for attendance in the legal proceeding, plus travel costs.

(d) *Payment of fees.* A requester must pay witness fees for current BBG employees and any record certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony of former BBG employees, the requester must pay applicable fees directly to the former BBG employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(e) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(f) *De minimis fees.* Fees will not be assessed if the total charge would be $10.00 or less.

## Subpart D—Penalties

**§ 504.15 Penalties.**

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by the BBG, or as ordered by a Federal court after the BBG has had the opportunity to be heard, may face penalties as provided in any applicable enforcement statute.

(b) A current BBG employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action and, if done for a valuable consideration, may subject that person to criminal prosecution.

Dated: April 16, 2007.

**Carol F. Baker,**

*Director, Office of Administration.*

[FR Doc. E7–7559 Filed 4–19–07; 8:45 am]

BILLING CODE 8610–01–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2007–0197; FRL–8300–5]**

## Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Definition, Emergency Episode, and Monitoring Regulations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Nevada Department of Conservation and Natural Resources portion of the Nevada State Implementation Plan (SIP). These revisions concern a definition, an emergency episode regulation, and various monitoring regulations. We are approving state provisions that regulate emission sources under the Clean Air Act as amended in 1990 (Act or CAA).

**DATES:** This rule is effective on June 19, 2007 without further notice, unless EPA receives adverse comments by May 21, 2007. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2007–0197, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947–4126.

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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## I. The State's Submittal

### *A. What Regulations Did the State Submit?*

The Governor's designee, the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection (NDEP), submitted a revision to the applicable state implementation plan (SIP) on December 8, 2006.

Most of the provisions submitted on December 8, 2006 concern permitting regulations which are the subject of a separate **Federal Register** proposed rule. The remaining regulations are being acted on in this rulemaking and concern clarifications made to harmonize State and Federally-enforceable requirements.

The following table lists the provisions of the Nevada Administrative Code (NAC) addressed by this rulemaking with the dates they were submitted by NDEP.

SUBMITTED PROVISIONS

| NAC No. | NAC title | Adopted | Submitted |
|---|---|---|---|
| 445B.134 | ''Person'' defined | 09/06/06 | 12/08/06 |
| 445B.230 | Plan for reduction of emissions | 09/06/06 | 12/08/06 |
| 445B.258 | Monitoring systems: Verification of operational status | 09/06/06 | 12/08/06 |
| 445B.259 | Monitoring systems: Performance evaluations | 09/06/06 | 12/08/06 |
| 445B.260 | Monitoring systems: Components contracted for before September 11, 1974 | 09/06/06 | 12/08/06 |

The Nevada SIP includes previous versions of these regulations. We approved NAC 445B.134, 445B.258, 445B.259, and 445B.260 on December 11, 2006 (71 FR 71486) and approved NAC 445B.230 on March 27, 2006 (71 FR 15040). The amended regulations submitted by NDEP on December 8, 2006 were included as sections 2, 5, 6, 7, and 8 of Regulation R151–06, which was adopted by the State Environmental Commission on September 6, 2006.

### *B. What Is the Regulatory History of the Nevada SIP?*

Pursuant to the Clean Air Amendments of 1970, the Governor of Nevada submitted the original Nevada SIP to EPA in January 1972. EPA approved certain portions of the original SIP and disapproved other portions under CAA section 110(a). See 37 FR 10842 (May 31, 1972). For some of the disapproved portions of the original SIP, EPA promulgated substitute provisions under CAA § 110(c).[1] This original SIP included various rules, codified as articles within the Nevada Air Quality Regulations (NAQR), and various statutory provisions codified in chapter 445 of the Nevada Revised Statutes (NRS). In the early 1980's, Nevada reorganized and re-codified its air quality rules into sections within chapter 445 of the Nevada Administrative Code (NAC). Today, Nevada codifies its air quality regulations in chapter 445B of the NAC.

Nevada adopted and submitted many revisions to the original set of regulations and statutes in the SIP, some of which EPA approved on February 6, 1975 at 40 FR 5508; on March 26, 1975 at 40 FR 13306; on January 9, 1978 at 43 FR 1341; on January 24, 1978 at 43 FR 3278; on August 21, 1978 at 43 FR 36932; on July 10, 1980 at 45 FR 46384; on April 14, 1981 at 46 FR 21758; on August 27, 1981 at 46 FR 43141; on March 8, 1982 at 47 FR 9833; on April 13, 1982 at 47 FR 15790; on June 18, 1982 at 47 FR 26386; on June 23, 1982 at 47 FR 27070; on March 27, 1984 at 49 FR 11626. Between 1984 and 2005, EPA approved very few revisions to Nevada's applicable SIP despite numerous changes that have been adopted by the State Environmental Commission. As a result, the version of the rules enforceable by NDEP was often quite different from the SIP version enforceable by EPA.

Recently, Nevada submitted revisions to their SIP on February 16, 2005, January 12, 2006, and March 24, 2006. EPA approved various portions of these submittals on March 27, 2006 at 71 FR 15040; on August 31, 2006 at 71 FR 51766; on December 11, 2006 at 71 FR 71486; and on January 3, 2007 at 72 FR 11.

### *C. What Is the Purpose of this Rulemaking?*

The purpose of this rulemaking is to bring the applicable SIP up to date. The regulations that are the subject of this rulemaking include a definition, a general rule for emergency episodes, and various monitoring regulations.

[1] Provisions that EPA promulgated under CAA section 110(c) in substitution of disapproved State provisions are referred to as Federal Implementation Plans (FIPs).

## II. EPA's Evaluation and Action

### *A. How Is EPA Evaluating the Regulations?*

Generally, SIP regulations must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). Relevant EPA guidance and policy documents that we used to help evaluate enforceability include ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,'' dated September 23, 1987, from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.*

### *B. Do the Regulations Meet the Evaluation Criteria?*

We believe the following provisions are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations: NAC 445B.134, NAC 445B.230, NAC 445B.258, NAC 445B.259, and NAC 445B.260. Generally, these provisions have been revised by the addition of certain clarifications and enhancements. The Technical Support Document (TSD) dated March 5, 2007 has more information on our evaluation.

### *C. Public Comment and Final Action.*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by May 21, 2007, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 19, 2007. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## III. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 4, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

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

## PART 52—[AMENDED]

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

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

### Subpart DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraph (c)(62) to read as follows:

**§ 52.1470 Identification of plan.**

* * * * *

(c) * * *

(62) The following plan revision was submitted on December 8, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(*1*) The following sections of Chapter 445B of the Nevada Administrative Code were adopted on September 6, 2006: 445B.134, 445B.230, 445B.258, 445B.259, and 445B.260.

[FR Doc. E7–7546 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

**[EPA–R09–OAR–2007–0090; FRL–8303–5]**

### Clean Air Act Full Approval of Revisions to the State of Hawaii Operating Permit Program

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the State of Hawaii's (''Hawaii'' or ''State'') operating permit program that amend Hawaii's regulations for insignificant emissions units (IEUs). In an April 1, 2002 Notice of Deficiency published in the **Federal Register**, EPA notified Hawaii of EPA's finding that Hawaii's provisions for IEUs did not meet minimum Federal requirements. Hawaii has revised its program to correct the deficiency identified in the Notice of Deficiency and this action fully approves of those revisions.

**DATES:** This operating permits program rule is effective on June 19, 2007 without further notice, unless EPA receives adverse comments by May 21, 2007. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that these revisions will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2007–0090, by one of the following methods:

1. Federal eRulemaking Portal: *www.regulations.gov*. Follow the on-line instructions.

2. E-mail: *Rios.Gerardo@epa.gov*.

3. Mail or deliver to Gerardo Rios, Permits Office Chief, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105.

*Instructions:* All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Robert Baker, EPA Region IX, at (415) 972–3979, (*Baker.Robert@epa.gov*).

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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II. What Is Being Addressed in This Document?
III. What Are the Program Changes That EPA Is Approving?
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### I. What Is the Operating Permit Program?

The Clean Air Act Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides ($NO_X$), or particulate matter ($PM_{10}$); those that emit 10 tons per year or more of any single hazardous air pollutant (HAP) listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs.

Hawaii's operating permits program was submitted to EPA in response to this directive. EPA granted interim approval to Hawaii's air operating permits program on December 1, 1994 (59 FR 61549). After Hawaii revised its program to address the conditions of the interim approval, EPA promulgated final full approval of Hawaii's title V operating permits program on November 26, 2001 (66 FR 62945).

### II. What Is Being Addressed in This Document?

When an operating permit program does not fully meet the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA may withdraw part 70 program approval if the permitting authority fails to take corrective action. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal that the permitting authority be notified of any finding of deficiency by the Administrator and that the notice be published in the **Federal Register**.

Deficiencies involving the provisions in the State's program that exempt insignificant activities from part 70 permitting requirements came to light as a result of the court decision in *Western States Petroleum Association (WSPA)* v.

*Environmental Protection Agency*, 87 F.3d 280 (9th Cir. 1996). The court found in the WSPA case that EPA had acted inconsistently in its approval of the insignificant activities provisions in several part 70 programs, including the State of Hawaii's program. As a result, on April 1, 2002 EPA published a Notice of Deficiency for the State of Hawaii's title V operating permits program based upon the finding that Hawaii's provisions for IEUs did not meet minimum Federal requirements for program approval. This **Federal Register** notice describes the changes that the State has made to its operating permit program (Chapter 60.1 of the Hawaii Administrative Rules) to correct the deficiency identified in the Notice of Deficiency.

## III. What Are the Program Changes That EPA Is Approving?

As discussed above, EPA published a Notice of Deficiency on April 1, 2002 that identified a deficiency in the State's title V program. In response to the Notice of Deficiency, the State revised its operating permit program to remove or correct the deficiency identified by EPA. The State made its revised rule available to public review and comments. On November 4, 2003, the State adopted the revisions. The revised program was submitted to EPA on November 14, 2003. We have included below a discussion of the identified deficiency, the conditions for correction, and a summary of how the State has corrected the deficiency. The Technical Support Document (TSD) for this action includes more information about the State's submittal and more details of the revisions made. In the discussion here, we have listed the EPA cited deficiency identified in the April 1, 2002 **Federal Register** notice (see 62 FR 15385), followed by a brief description of the State's revisions to its operating permit program to remove the deficiency.

*Insignificant activities:* Part 70 authorizes EPA to approve as part of a state program a list of IEUs which need not be included in the permit application, provided that an application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the EPA-approved schedule. Nothing in part 70, however, authorizes a state to exempt IEUs from the testing, monitoring, recordkeeping, reporting, or compliance certification requirements of 40 CFR 70.6. Since the Hawaii program exempted IEUs from all permitting requirements including testing, monitoring, recordkeeping, reporting, and compliance certification requirements, EPA has required that Hawaii revise its IEU regulations.

*State's response:* The State revised rule § 11–60.1–82(e) removing the provision exempting IEUs from permitting requirements.

## IV. What Is Involved in This Action?

Today, we are fully approving the State's revised operating permit program (Chapter 60.1 of the Hawaii Administrative Rules). We have determined that the revisions made by the State remove or correct the deficiency identified by us in 2002. In addition, the State has made other changes to its operating permit program that are unrelated to the changes made to correct the identified program deficiency. EPA is not approving any action on these additional program changes in this notice. EPA will evaluate the additional program changes and will take appropriate action at a later date.

## V. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the revisions into the State of Hawaii State Implementation Plan because we believe it is consistent with title V of the Clean Air Act and 40 CFR Part 70. We are processing this action as a direct final action because the revisions made to the program to resolve the Notice of Deficiency are not controversial. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of this same rule. If we receive adverse comments by May 21, 2007, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. Copies of the Hawaii submittal and other supporting documentation used in developing the approval are contained in docket files maintained at the EPA Region IX office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 19, 2007. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the revision that are not the subject of the adverse comment.

## VI. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

**List of Subjects in 40 CFR Part 70**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 4, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

■ 40 CFR part 70, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

## PART 70—[AMENDED]

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Appendix A to part 70 is amended by adding paragraph (c) under Hawaii to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

* * * * *

Hawaii

* * * * *

(c) Department of Health: Program revisions submitted on November 14, 2003; submittal corrects the deficiency outlined in an April 1, 2002 Notice of Deficiency. These revisions are hereby granted full approval effective June 19, 2007.

* * * * *

[FR Doc. E7–7550 Filed 4–19–07; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 72, No. 76
Friday, April 20, 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

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Parts 1942 and 4284

**RIN 0570–AA28**

## Rural Business Enterprise Grant Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Business-Cooperative Service (RBS), an agency within the United States Department of Agriculture (USDA), Rural Development proposes to implement 7 CFR part 4284, subpart B in order to have an all-inclusive processing and servicing regulation. USDA Rural Development intends to provide a more user-friendly regulation that will be a better resource for public understanding and improvement in program administration.

**DATES:** Written comments on this proposed rule must be received on or before June 19, 2007 to be assured of consideration. The comment period for the information collection under the Paperwork Reduction Act of 1995 continues through June 19, 2007.

**ADDRESSES:** You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, Rural Development U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express mail or another courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, Attention: Cheryl Thompson, Rural Development, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., 7th Floor, address listed above.

**FOR FURTHER INFORMATION CONTACT:** Cindy Mason, Loan Specialist, Business Programs, USDA Rural Development (U.S. Department of Agriculture) STOP 3225, 1400 Independence Ave., SW., Washington, DC 20250, Telephone (202) 690–1433. The TDD number is (800) 795–3272 or (202) 720–6382.

**SUPPLEMENTARY INFORMATION:**

### Classification

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

### Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.769, Rural Business Enterprise Grants.

### Intergovernmental Review

The Rural Business Enterprise Grant (RBEG) Program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. USDA Rural Development will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and 7 CFR part 3015, subpart V.

### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

### Civil Justice Reform

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

### Environmental Impact Statement

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

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of UMRA generally requires USDA Rural Development to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Federalism**

It has been determined under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995, USDA Rural Development will seek OMB approval of the reporting and recordkeeping requirements contained in this proposed rule.

**E-Government Act Compliance**

USDA Rural Development 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. For information pertinent to E–GOV compliance related to this proposed rule, please contact Jeanette Waters on (202) 720–4059.

*Title:* Rural Business Enterprise Grant Program.

*Type of Request:* New collection.

*Abstract:* The Rural Business Enterprise Grant (RBEG) Program is authorized under section 310B(c) of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to finance or facilitate the development of small and emerging private business enterprises; to create, expand or operate rural distance learning networks or programs that provide educational or job training instruction related to the potential employment or job advancement of adult students; and to provide technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. An additional purpose authorized under section 310B(f) of the Consolidated Farm and Rural Development Act is for statewide broadcasting systems that provide information on agriculture and other issues of importance to farmers and other rural residents. USDA Rural Development intends to incorporate all of the authorized purposes discussed above into one program regulation, 7 CFR part 4284, subpart B. This subpart contains various requirements for information from grantees, and some requirements may cause the grantees to require information from other parties. The information requested is vital for USDA Rural Development to be able to process applications in a responsible manner, make prudent program decisions, and effectively monitor the grantees' activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately. This collection of information is necessary in order to implement 7 CFR part 4284, subpart B.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 7 hours per response.

*Respondents:* Nonprofits and public bodies.

*Estimated Number of Respondents:* 700.

*Estimated Number of Responses per Respondent:* 12.

*Estimated Number of Responses:* 8,160.

*Estimated Total Annual Burden on Respondents:* 53,435.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

**Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of USDA Rural Development, including whether the information will have practical utility; (b) the accuracy of the USDA Rural Development estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the 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. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**Background**

The current 7 CFR part 1942, subpart G, has recently been updated with a rural area definition change made by section 6020 of the Farm Security and Rural Investment Act of 2002; however, the regulation has not been completely reissued since 1992. USDA Rural Development consistently reissues administrative notices year after year to our field offices regarding clarifications and policies on our program. This guidance should officially be made part of the regulation through the Federal government regulatory review process and allow the public the opportunity to make comments on the policy decisions. 7 CFR part 1942, subpart G, along with Attachment 1, is currently used to administer the program and at times can be difficult to follow. USDA Rural Development hopes to provide a more user-friendly regulation with the implementation of 7 CFR part 4284, subpart B. The existing regulation for the Rural Business Enterprise Grants and Television Demonstration Grants founds in 7 CFR part 1942, subpart G, will be removed upon publication of the final rule.

**List of Subjects**

*7 CFR Part 1942*

Business and industry, Grant programs—Housing and community development, Industrial park, Rural areas.

*7 CFR Part 4284*

Business and industry, Economic development, Grant programs—Housing and community development, Rural areas.

Therefore, chapters XVIII and XLII, title 7, of the Code of Federal Regulations are proposed to be amended as follows:

**CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS-COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE**

**PART 1942—ASSOCIATIONS**

1. The authority citation for part 1942 continues to read as follows:

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1932, 7 U.S.C. 1989, and 16 U.S.C. 1005.

**Subpart G [Removed and Reserved]**

2. Subpart G of part 1942 is removed and reserved.

**CHAPTER XLII—RURAL BUSINESS-COOPERATIVE SERVICE AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE**

**PART 4284—GRANTS**

3. The authority citation for part 4284 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1932, 7 U.S.C. 1989, and 16 U.S.C. 1005.

4. Subpart B is added to part 4284 to read as follows:

**Subpart B—Rural Business Enterprise Grant Program**

Sec.
4284.101 Purpose.
4284.102 Policy.
4284.103 Definitions.
4284.104 Exception authority.
4284.105 [Reserved]
4284.106 Applicant eligibility requirements.
4284.107–4284.108 [Reserved]
4284.109 Eligible purposes.
4284.110 Ineligible purposes.
4284.111–4284.112 [Reserved]
4284.113 Project eligibility.
4284.114–4284.115 [Reserved]
4284.116 Small business eligibility certification.
4284.117 Small business eligibility exception.
4284.118 Private tribally-owned business.
4284.119–4284.120 [Reserved]
4284.121 Grant ownership.
4284.122 Leveraging.
4284.123–4284.124 [Reserved]
4284.125 Preapplication.
4284.126 Preapplication contents.
4284.127 Scope of work requirements.
4284.128 Other narrative information.
4284.129–4284.130 [Reserved]
4284.131 Program income.
4284.132 Indirect cost rate.
4284.133–4284.134 [Reserved]
4284.135 Civil rights requirements.
4284.136 Environmental review.
4284.137–4284.138 [Reserved]
4284.139 Project selection criteria.
4284.140–4284.141 [Reserved]
4284.142 Application.
4284.143 Application contents.
4284.144 Revolving loan fund work plan requirements.
4284.145–4284.148 [Reserved]
4284.149 Application selection.
4284.150–4284.151 [Reserved]
4284.152 Letter of Conditions.
4284.153 Grant Agreement.
4284.154–4284.155 [Reserved]
4284.156 Time frame for use of grant funds.
4284.157 Financial management system.
4284.158 Grant disbursement.
4284.159–4284.160 [Reserved]
4284.161 Insurance requirements.
4284.162–4284.163 [Reserved]
4284.164 Changes in scope of work, work plan or budget.
4284.165–4284.166 [Reserved]
4284.167 Reporting requirements.
4284.168–4284.169 [Reserved]
4284.170 Site visits.
4284.171–4284.172 [Reserved]
4284.173 Record retention.
4284.174–4284.177 [Reserved]
4284.178 Disposition of real property, equipment, and supplies.
4284.179–4284.180 [Reserved]
4284.181 Construction requirements.
4284.182–4284.183 [Reserved]
4284.184 Clarification of revolving loan fund operation.
4284.185–4284.188 [Reserved]
4284.189 Grant termination.
4284.190 Transfer and assumption.
4284.191–4284.193 [Reserved]
4284.194 Appeal rights.
4284.195–4284.200 [Reserved]

## Subpart B—Rural Business Enterprise Grant Program

### § 4284.101 Purpose.

This subpart outlines policies and procedures for administering the Rural Business Enterprise Grant (RBEG) Program. The purpose of this program is to provide grants to stimulate economic activity and employment in rural areas by:

(a) Financing and facilitating development of small and emerging private business enterprises;

(b) Creating, expanding, and operating rural distance learning networks or rural learning programs that provide educational or job training instruction related to the potential employment or job advancement of adult (as defined per State law) students;

(c) Providing technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities; and

(d) Financing statewide broadcasting systems that provide information on agriculture and other issues of importance to farmers and other rural residents.

### § 4284.102 Policy.

(a) The RBEG Program will be administered under this subpart; however, the requirements of 7 CFR parts 3015, 3016, 3017, 3018, 3019, and 3052 also govern the United States Department of Agriculture (USDA) grant programs. USDA Rural Development has attempted to address these requirements in this subpart. Nevertheless, any conflicts between those parts and this subpart will be resolved in favor of the applicable 7 CFR parts of 3015, 3016, 3017, 3018, 3019, and 3052.

(b) Grants will not be awarded under this program unless all eligibility requirements are met in accordance with this subpart.

(c) Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to USDA Rural Development employees, members of their families, close relatives, or business or close personal associates is subject to the provisions of RD Instruction 1900-D. Applicants will be required to identify any relationship or association with a USDA Rural Development employee.

(d) Grantees and USDA Rural Development program administrators will be held accountable for following the procedures provided in this subpart.

### § 4284.103 Definitions.

The following definitions pertain to this subpart:

*Agriculture production.* The cultivation, production, growing, raising, feeding, housing, breeding, hatching, or managing of crops, plants, animals or birds, either for fiber, food for human consumption or livestock feed.

*Cognizant agency.* The Federal agency that has the largest dollar value of awards with a grantee and the one responsible for negotiating and approving indirect cost rates for that grantee.

*Conflict of interest.* When the grantee's immediate family, employees, or board of directors including their immediate families have a legal or personal financial interest in the recipient(s) receiving the benefits or services of the grant.

*Corporation.* A body of persons granted a charter legally by a state government or Federally recognized Indian tribe recognizing it as a separate entity having its own rights, privileges, and liabilities distinct from its members.

*Cost of goods sold.* The amount determined by subtracting the value of the ending merchandise inventory from the sum of the beginning merchandise inventory and the net purchase for the fiscal period.

*Grant closeout.* When all required work is completed, administrative actions relating to the completion of work and expenditures of funds have been accomplished, and USDA Rural Development accepts final expenditure information.

*Grant period.* The period of time to complete a project and receive grant funds as reimbursement for allowable expenses.

*Gross profit.* Net sales minus cost of goods sold.

*Indirect cost rate.* A percentage of an organization's total indirect costs to its direct cost base.

*Long-term.* The period of time covered by the three most recent decennial censuses of the United States to the present.

*Net sales.* Gross sales less discounts, allowances and returns.

*Non-metropolitan median household income.* Median household income of the state's non-metropolitan counties and portions of metropolitan counties outside of cities, towns, and places of 50,000 or more population.

*Predominantly rural coverage area.* The area covered by the signal of a statewide, private, nonprofit public

television system that is more than 50 percent of the rural (as defined in this section) population according to the latest decennial census of the United States.

*Private business.* A business owned and controlled either by individuals or by a nonpublic entity, which is legally organized under State law or under the laws or codes of a Federally recognized Indian tribe.

*Private nonprofit corporation.* A corporation created for private purposes including Federal Credit Unions if properly organized as a private nonprofit corporation (not controlled or associated with government interest) that does not distribute any part of its income to its members and has a 501(c)(3) Internal Revenue Service tax-exempt revenue code.

*Program income.* Gross income earned by the grantee directly generated by the grant-supported activity or earned as a result of the grant award during the grant period.

*Project.* The real property, equipment, supplies, revolving loan fund, technical assistance or any other assistance funded under this program.

*Public body.* A state; county; city; township; and incorporated towns and villages, boroughs, authorities, districts; and Federally recognized Indian tribes.

*Qualified national nonprofit organization.* A corporation created for private purposes (not controlled or associated with government interest) that does not distribute any part of its income to its members and has a 501(c)(3) Internal Revenue Service tax-exempt revenue code. The corporation must also operate in a Multi-state area.

*Revolved funds.* The portion of the revolving loan fund that is not composed of USDA Rural Development grant funds including principal and interest payments and fees collected on loans made from the revolving loan fund. Revolved funds shall not be considered Federal funds.

*Revolving loan fund.* A fund created with grant funds under this program and/or funds from other sources used to make loans to small businesses for economic development and job creation purposes that uses the loan repayments to make additional loans in accordance with the approved work plan.

*Rural and rural area.* Any area other than a city or town that has a population of greater than 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town according to the latest decennial census of the United States.

*Rural Development.* For purposes of this regulation, the Rural Business-Cooperative Service (RBS), an Agency of the United States Department of Agriculture, or a successor Agency, will be referred to as USDA Rural Development.

*Rural distance learning networks.* A telecommunication link between instructors and adult students.

*Rural distance learning programs.* A system or means of providing education or job training instruction relating to potential employment or job advancement of adult students.

*Small and emerging private business enterprise.* Any private business that will employ 50 or fewer new employees and has less than $1 million in projected gross profit (per generally accepted accounting principles). Small and emerging private business enterprise is referred to as ''small business'' in this subpart.

*State.* Any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

*Statewide.* Having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State.

*Technical assistance.* Providing support by analyzing, evaluating, or training to solve a problem. USDA Rural Development will determine whether a specific activity qualifies as technical assistance.

*Third-party, in-kind contributions.* The value of non-cash contributions provided by non-Federal third parties. Third-party, in-kind contributions may be in the form of real property, equipment, supplies and other expendable property. The value of the goods and services must directly benefit and be specifically identifiable to the project.

*Total project cost.* The sum of all costs associated with a completed, operational project.

### § 4284.104 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart that is not inconsistent with the authorizing statute or any applicable law if the Administrator determines that requirement or provision would adversely affect the government's interest.

### § 4284.105 [Reserved]

### § 4284.106 Applicant eligibility requirements.

The applicant eligibility requirements will be listed by type of grant followed by other requirements that must be met by the applicant for eligibility unless otherwise noted.

(a) *Project grant (other than paragraphs (b) or (c) of this section).* Applicants must be a public body or a private, nonprofit corporation.

(b) *Passenger transportation technical assistance grant.* Applicants must be a qualified national nonprofit organization with experience in providing technical assistance and training to rural communities for the purpose of improving passenger transportation service or facilities.

(c) *Television demonstration grant.* Applicants must be a statewide, private, nonprofit public television system (licensed by the Federal Communications Commission under its non-commercial classification), whose coverage area is predominantly rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. The National Public Broadcasting System makes the determination of eligibility for statewide and predominantly rural coverage area as defined in this subpart.

(d) *Other applicant eligibility requirements.* Applicants must also meet the following requirements to be eligible for assistance. A certification must be signed stating that the applicant has:

(1) The legal authority to carry out the purpose(s) of the proposed project;

(2) No delinquent debt to the Federal Government or any outstanding Federal judgments;

(3) At least 3 years experience as an organization in the proposed type of project. The only exception is if the project is for a revolving loan fund and a third-party with the required experience will be hired to do the credit and financial analysis. The applicant may certify if this is the case;

(4) No conflict of interest in the proposed project;

(5) Ownership and control of the proposed project; and

(6) 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 (applies only if the applicant is a private nonprofit).

**§§ 4284.107–4284.108 [Reserved]**

**§ 4284.109 Eligible purposes.**

Grant funds may be used to do the following; however, if the grant is to benefit a small business by using purposes defined in paragraphs (a) through (c) of this section, the small business must lease any real property or equipment from the applicant at rates that would ensure sustainability of the project (i.e., the grantee's cost of operating the facility including insurance premiums):

(a) Purchase and develop land, easements, and right-of-ways;

(b) Construct or improve buildings; plants; access streets and roads; parking areas; utilities; and pollution control and abatement facilities;

(c) Purchase of machinery and equipment;

(d) Provide technical assistance or training;

(e) Create, expand, and operate rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement of adult (as defined per State law) students. Paragraphs (a) through (d) of this section may be utilized for this purpose;

(f) Establish or recapitalize a revolving loan fund;

(g) Pay for reasonable fees and charges for professional services necessary for the planning and development of a construction project;

(h) Pay off an interim financing loan incurred in connection with a construction project when a preapplication is received by USDA Rural Development before construction is started;

(i) Pay for on-site technical assistance and training to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas, the development of training materials, and the provision of necessary training assistance to local officials and agencies in rural areas for the purpose of improving passenger transportation services or facilities; and

(j) Pay for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of television demonstration programs.

**§ 4284.110 Ineligible purposes.**

Grant funds may not be used for the following:

(a) Costs incurred on the project before receipt of the completed preapplication by USDA Rural Development unless it is for professional services necessary for the planning and development of a construction project;

(b) Agriculture production;

(c) Residential housing;

(d) Any illegal or gambling activities;

(e) Lending and investment institutions and insurance companies;

(f) Charitable institutions and fraternal organizations;

(g) Duplicating current services or replacing or substituting support previously provided beyond a 2-year period of time;

(h) Paying the costs of preparing the preapplication or application package for funding under this program;

(i) Technical assistance which duplicates assistance provided by the Forest Service to implement an action plan under the National Forest-Dependent Rural Communities Economic Diversification Act;

(j) Making loans from a revolving loan fund that do not have reasonable rates and terms as compared to what is charged in the area where the project is located;

(k) Transferring jobs from one area to another or increasing the production of goods when there is not sufficient demand or the availability of services or facilities;

(l) Funding part of a project that is dependent on other funding unless there is a firm commitment in writing of other funding to ensure completion of the project;

(m) Projects where USDA Rural Development determines that construction was initiated to avoid Federal environmental compliance requirements;

(n) Financial assistance requests in excess of $500,000;

(o) Passing grant funds directly to a third-party recipient;

(p) Using technical assistance to pay for operating expenses of a small business.

(q) Operating expenses of an eligible applicant unless it is for television demonstration projects or the salaries and expenses related to employees who directly perform technical assistance to small businesses, adult students or passenger transportation projects;

(r) Fund political activities; and

(s) Paying for construction or improvement projects when the applicant is leasing the real property where the construction or improvement will occur.

**§§ 4284.111–4284.112 [Reserved]**

**§ 4284.113 Project eligibility.**

The applicant must provide supporting documentation to illustrate the project:

(a) Has a demonstrated need;

(b) Is economically feasible to ensure sustainability beyond grant assistance unless the project is for a feasibility study;

(c) Is located in a rural area;

(d) Will benefit small business or provide job placement or advancement for adult students as the end result of the project unless the project is for passenger transportation or television demonstration grants; and

(e) Is measurable to document performance outcomes and demonstrate results of the program.

**§§ 4284.114–4284.115 [Reserved]**

**§ 4284.116 Small business eligibility certification.**

Any small business receiving assistance under this program must be a separate, private business and cannot be the grantee or any affiliate thereof. Each small business must sign a certification stating they:

(a) Meet the small and emerging private business enterprise definition contained in § 4284.103 of this subpart;

(b) Are located in a rural area as defined in § 4284.103 of this subpart;

(c) Have no delinquent debt to the Federal Government or any outstanding Federal judgments;

(d) Have no conflict of interest in the proposed project;

(e) 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.

**§ 4284.117 Small business eligibility exception.**

If the small business is a nonprofit entity or other tax-exempt organization (as defined by the Internal Revenue Service revenue codes) located in a city, town or unincorporated area with a population of 5,000 or less and has a principal office on land of an existing or former Native American reservation, the small business does not need to meet the small business definition contained in § 4284.103 of this subpart. However, the small business receiving assistance must sign a certification stating they meet the requirements of paragraphs (b) through (e) defined in § 4284.116.

**§ 4284.118 Private tribally-owned business.**

For a tribally-owned business to be considered a private business, it must be

held through a separate entity, such as a tribal corporation. The corporation may be owned by the tribe and distribute profits to the tribe. However, the governing board must be independent from the tribal government and elected or appointed for a specific time period. Board members must not be subject to removal without cause by the tribal government. A majority of the board members must not now or in the future, as long as they are board members, be members of the tribal council or other governing board of the tribe. Tribally-owned small businesses will be required to sign a small business certification in accordance with either § 4284.116 or § 4284.117.

**§§ 4284.119–4284.120 [Reserved]**

**§ 4284.121 Grant ownership.**

The grantee must have ownership and control of the project until transfer, disposition, or termination of the project occurs.

(a) The grantee must retain ownership of any real property that will be purchased or improved with grant funds. In the case of installation or improvements to utilities or streets, the grantee does not have to own the land, utility, or street that is improved in the public right of way, but must retain ownership of the land surrounding the improvements.

(b) The grantee must retain ownership of any equipment or supplies acquired with grant funds.

(c) The grantee must establish a separate bank account for a revolving loan fund, secure the account by signing a control agreement (available from any USDA Rural Development State Office) and direct and manage the fund.

(d) The grantee must oversee and control technical assistance, passenger transportation and television demonstration projects until the grants are closed out.

**§ 4284.122 Leveraging.**

Supplemental funding at a minimum of 20 percent of the total project cost must be included in the project. Supplemental funds may be from cash injection by the applicant, financial institutions, state or local governmental sources, or third-party, in-kind contributions. Third-party, in-kind contributions will be limited to 10 percent of supplemental funding and USDA Rural Development will advise if the third-party, in-kind contributions are acceptable. Applicants may not use third-party, in-kind contributions for revolving loan fund projects. Other Federal grant awards cannot be used to meet the 20 percent leveraging match.

**§§ 4284.123–4284.124 [Reserved]**

**§ 4284.125 Preapplication.**

A preapplication is required to establish communication between the potential applicant and USDA Rural Development, determine the potential applicant's eligibility, and identify projects which have little or no chance for funding before applicants incur significant costs.

**§ 4284.126 Preapplication contents.**

A complete preapplication must be submitted to the USDA Rural Development State Office where the project is located. Multi-state projects must be submitted to the USDA Rural Development State Office where the applicant is headquartered. A complete preapplication must include:

(a) An SF–424, ''Application for Federal Assistance,'' including the appropriate non-construction (SF–424A and SF–424B) or construction (SF–424C and SF–424D) budget and assurance forms, and a Dun and Bradstreet Universal Numbering System (DUNS) number handwritten or typed on the SF–424;

(b) Intergovernmental review comments from the State Single Point of Contact, or evidence that the State has elected not to review the program under Executive Order 12372. Applicants can obtain the necessary state clearinghouse contacts from the USDA Rural Development State Office where the project is located;

(c) Evidence of legal existence including a copy of the articles of incorporation, by-laws, and certificate of good standing or incorporation;

(d) Form RD 1940–20, ''Request for Environmental Information,'' unless the project is considered a categorical exclusion in accordance with 7 CFR part 1940, subpart G. Applicants can verify if their project is a categorical exclusion with the USDA Rural Development State Office where the project is located;

(e) A signed applicant eligibility certification;

(f) A copy of the most recent year-end financial statements that should include a balance sheet and income statement prepared in accordance with generally accepted accounting principles;

(g) A preliminary architectural or engineering report for construction projects that includes a description of the facility; including size, location, related facilities, schematic cost estimate, and schematic plans; and

(h) A scope of work.

**§ 4284.127 Scope of work requirements.**

The scope of work is a detailed written narrative identifying the aspects of a proposed project. It must be completed for all projects and contain the following:

(a) Specific purposes, objectives, and need for grant funds including identification of the proposed project in a local or regional plan;

(b) Timeframes to complete the proposed project;

(c) Names and responsibilities of key personnel who will carry out the objectives of the proposed project;

(d) Experience specifically related to the type of project proposed;

(e) Availability of other funds and sources;

(f) Number and type of small businesses to be assisted as a result of the grant including number of jobs created and/or saved and other anticipated goals and/or benefits of the proposed project, if applicable. This should be based on letters of interest or commitments;

(g) Number of adult students to be assisted as a result of the grant and other anticipated goals and/or benefits of the proposed project when the grant is for a rural distance learning network or rural learning program, if applicable. This should be based on letters of interest or commitments; and

(h) Anticipated goals and/or benefits for passenger transportation or television demonstration projects as a result of the grant, if applicable.

**§ 4284.128 Other narrative information.**

The following narrative information should be addressed in your preapplication to assist USDA Rural Development in assigning points under the scoring criteria. You may address it in the scope of work or in a separate document.

(a) Documented statistical information on population, unemployment rate, and median household income for the area to be served by the proposed project;

(b) Documented information on sudden and severe economic dislocation produced by such factors as the departure or downsizing of a major employer, or natural disaster, if applicable; and

(c) Documented statistical information on long-term decline in population, if applicable.

**§§ 4284.129–4284.130 [Reserved]**

**§ 4284.131 Program income.**

Program income must be addressed in the SF–424 and the respective budget forms. Any program income earned during the grant period may be retained by the grantee to further the objectives and goals of the project.

**§ 4284.132 Indirect cost rate.**

The maximum indirect cost rate USDA Rural Development will pay is 25 percent of the grant request unless the grantee already has a negotiated agreement with its cognizant agency. A copy of the negotiated agreement must be provided with the preapplication.

**§§ 4284.133–4284.134 [Reserved]**

**§ 4284.135 Civil rights requirements.**

(a) All grants made under this subpart are subject to Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and part 1901, subpart E of this title.

(b) USDA Rural Development will inform grantees of their civil rights requirements in accordance with paragraph (a) of this section. Grantees may be required to collect certain information on their project or program to ensure that they are serving the public without discrimination.

**§ 4284.136 Environmental review.**

(a) All grants under this subpart are subject to the environmental requirements of 7 CFR part 1940, subpart G before any application is approved. The grantee must not take any actions that would have an adverse impact on the environment or limit the range of alternatives USDA Rural Development considers during the environmental review. If USDA Rural Development finds evidence that construction was initiated to avoid compliance requirements, the preapplication will not be considered for assistance. Any mitigation measures will be included in the Letter of Conditions or other grant approval document. The grantee is responsible for communicating the mitigation measures to the project designers for inclusion in the project construction documents.

(b) USDA Rural Development will conduct an initial environmental review on revolving loan fund projects and a separate environmental review on each loan the grantee is proposing to provide funds for until all grant funds have been expended. However, if the grantee has one loan project committed to use the total amount of the grant, USDA Rural Development will only conduct an individual project review.

(c) The grantee will be responsible for preparation of environmental reviews after they have lent out an amount equal to the grant award. Preparation will be accomplished using professional consultant services and the review document will conform to the requirements and formats of 7 CFR part 1940, subpart G.

**§§ 4284.137–4284.138 [Reserved]**

**§ 4284.139 Project selection criteria.**

USDA Rural Development will evaluate the preapplication and give it a priority score based on criteria in this section. This process will assist USDA Rural Development in prioritizing for funding approval. Any scoring criteria not addressed will automatically receive zero points. Applicants may average any figures that are based on the rural area to be served. All written commitment supporting documentation for priority points must be submitted to USDA Rural Development no later than the application stage. Points will be distributed as follows:

(a) *Population.* Figures from the latest decennial census of the United States must be used to score population on the area to be served by the proposed project as follows:

(1) The proposed project will be located in areas of under 5,000 population—15 points;

(2) The proposed project will be located in areas of between 5,000 and 15,000 population—10 points;

(3) The proposed project will be located in areas of between 15,001 and 25,000 population—5 points.

(b) *Economic Conditions.* Figures must be used for the area to be served by the proposed project as follows:

(1) *Unemployment rate.* Unemployment figures must come from the most recent published unemployment data by the Bureau of Labor Statistics, U.S. Department of Labor or State Department of Labor Statistics. Projects serving all of a State's rural area or Multi-State rural areas will compare State unemployment rates to the national unemployment rate.

(i) The proposed project will be located in areas where the unemployment rate exceeds the State rate by 50 percent or more—20 points;

(ii) The proposed project will be located in areas where the unemployment rate exceeds the State rate by 25 percent or more but less than 50 percent—10 points;

(iii) The proposed project will be located in areas where the unemployment rate exceeds the State rate by less than 25 percent—5 points.

(2) *Median household income.* Income figures must come from the latest decennial census of the United States, updated according to changes in the consumer price index. The poverty line figure used must be as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)) for a family of four for the State. Projects serving all of a State's rural area or Multi-State rural areas will compare State non-metropolitan median household incomes to the national poverty line.

(i) The proposed project will be located in areas where the median household income is less than poverty line—25 points;

(ii) The proposed project will be located in areas where the median household income is more than the poverty line, but less than 85 percent of the State non-metropolitan median household income—15 points;

(iii) The proposed project will be located in areas where the median household income is between 85 percent and 100 percent of the State non-metropolitan median household income—10 points;

(c) *Supplemental funding.* Written commitments from other financing sources must be provided with the application. Third-party, in-kind contributions will not be considered under this criterion only as part of the matching requirement. Points are awarded as follows:

(1) The proposed project will have supplemental funding in an amount equal to or greater than 75 percent of total project cost—25 points;

(2) The proposed project will have supplemental funding in an amount equal to or more than 50 percent, but less than 75 percent of total project cost—15 points;

(3) The proposed project will have supplemental funding in an amount equal to or more than 25 percent, but less than 50 percent of total project cost—10 points.

(4) The proposed project will have supplemental funding above 20 percent, but less than 25 percent of the total project cost—5 points.

(d) *Full-time direct jobs created or saved.* Evidence of full-time direct jobs created or saved must be included in the application. Full-time direct jobs must be calculated based on the total project cost and scored as follows:

(1) The proposed project will create or save one job per each $15,000 of the total project cost—10 points;

(2) The proposed project will create or save one job per each $25,000 of the total project cost—5 points.

(e) *Fund utilization.* Points will be awarded if the proposed project will utilize grant funds of $100,000 or less—25 points;

(f) *Local or regional plans.* The proposed project is identified in a local or regional economic development plan adopted by the area to be served by the project—5 points. A copy of the plan

must be included with the application to receive points.

(g) *Small business.* The small business to be assisted is a nonprofit entity or other tax-exempt organization (as defined by the Internal Revenue Service revenue codes) located in a city, town or unincorporated area with a population of 5,000 or less and has a principal office on land of an existing or former Native American reservation—5 points. Evidence of organization and location must be provided with the application.

(h) *Discretionary points.* USDA Rural Development may assign up to additional 30 points for discretionary items if the proposed project is an initial grant. An initial grant means that this would be the first time grant funds are being requested for the proposed project. Subsequent grant requests are not eligible for discretionary points. Evidence must be provided in the application to receive points. In addition, discretionary points will be awarded in the following situations:

(1) The proposed project is located in a Champion Community—5 points;

(2) The area to be served by the proposed project has had a loss of a major employer or industry within the last 3 years—5 points;

(3) The area to be served by the proposed project has had a Presidential or Secretarial natural disaster designation within the last 3 years—5 points;

(4) The area to be served by the proposed project has had a long-term decline in population—5 points;

(5) This would be the applicant's first grant award under the RBEG Program—10 points;

**§§ 4284.140—4284.141 [Reserved]**

**§ 4284.142 Application.**

USDA Rural Development will issue Form AD–622, ''Notice of Preapplication Review Action,'' or similar letter notifying the applicant that they are eligible to complete and submit an application or ineligible for assistance under this subpart due to legal existence or intended use of grant funds.

**§ 4284.143 Application Contents.**

A complete application will be submitted to the USDA Rural Development State Office and include the following:

(a) An updated SF–424 signed by the applicant, if necessary;

(b) Preliminary plans and specifications for construction projects; which will include a preliminary floor plan, site plan and elevations in sufficient detail for preparing an appraisal along with a preliminary estimate of construction costs;

(c) Comments from the State Historical Preservation Office or the Tribal Historical Preservation Office for construction projects;

(d) An independent third-party appraisal if the proposed project is to purchase real property;

(e) A work plan if the proposed project is for a revolving loan fund;

(f) Written commitments for supplemental funding;

(g) Letters of interest or commitment from small businesses needing assistance, if applicable;

(h) Small business certification, if applicable;

(i) Letters of interest or commitment from local employers, schools, training facilities, etc. to show the need of employment or job advancement opportunities for adult students, if applicable;

(j) A copy of the local or regional plan in which the proposed project is identified;

(k) Form RD 400–1, ''Equal Opportunity Agreement'' if the proposed project includes construction;

(l) Form RD 400–4, ''Assurance Agreement';

(m) Form AD 1049, ''Certification Regarding Drug-Free Workplace Requirements'';

(n) Form AD 1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions'';

(o) RD Instruction 1940–Q, Exhibit A–1, ''Certification for Contracts, Grants and Loans (Lobbying Activities)'' if the grant request is over $100,000; and

(p) SF–LLL, ''Disclosure of Lobbying Activities,'' if the grant is over $100,000 and the applicant has made or has agreed to make any payments to influence a decision in connection with the specific project.

**§ 4284.144 Revolving loan fund work plan requirements.**

If the grant will be used to create or add to a revolving loan fund, the requirements of this section must be met. The revolving loan fund plan governs the operation of the fund and must have sufficient detail to provide USDA Rural Development with a complete understanding of what will be accomplished. It must contain the following:

(a) Demonstrated need of the fund including identification of the proposed project in a local or regional plan and the accomplishments to be completed with the fund. This should include a list of eligible small businesses (based on letters of interest or commitments) that need loans with the anticipated amount needed, purpose, and number of jobs to be created and/or saved.

(b) Experience of the organization in operating a revolving loan fund;

(c) Marketing and outreach plan with specific timeframes to complete the proposed accomplishments of the fund;

(d) Key personnel involved in the operation of the fund and their specific responsibilities;

(e) Availability of other funds and their sources;

(f) Service area where the loans will be offered;

(g) Eligibility criteria, loan purposes, and loan limits of the fund;

(h) Proposed fees, loan interest rate, and loan terms and how they are determined. These charges should be sufficient to support the operating expenses of the fund;

(i) Proposed collateral requirements;

(j) Application review and loan committee approval process;

(k) A copy of your application that must include, at a minimum, a space for the name and address of the loan recipient; loan purpose; interest rate and terms; location, nature, and scope of the project being financed; other funding included in the project; type and lien priority of collateral; and jobs to be created and/or saved.

(l) Process to be followed if a loan applicant is rejected;

(m) Monitoring system for distribution of approved funds and loan recipient accomplishments;

(n) Monitoring system for financial and activity reports; and

(o) Any other information pertinent to the revolving loan fund.

**§§ 4284.145–4284.148 [Reserved]**

**§ 4284.149 Application selection.**

(a) Pending the availability of sufficient funds, USDA Rural Development State Offices receive an allocation of funds under this subpart each fiscal year. State Offices use the scoring criteria as defined in § 4284.139 to select the highest-ranking applications until the state allocation has been depleted. State Offices set internal cut-off dates for receipt of preapplications and attempt to make the information public knowledge. However, it is recommended that applicants contact the State Office to find out the specific amounts available and funding deadlines for this program. Applicants will receive a Letter of Conditions for grant approval and instructions from the State Office if the application is selected for funding.

(b) The National Office generally holds a minimal amount of appropriated

funds for a national reserve competition each fiscal year. State Offices that have depleted the state allocation are eligible to submit applications to the National Office for competition. Starting with the highest-ranking application received nationwide, the highest-ranking application per state is selected until the reserve is exhausted. This ensures USDA Rural Development is distributing funds on a geographical basis. If a tie exists in the competition, projects are selected based on viability of the projects in accordance with the funds available. State Offices will submit applications to the National Office for reserve competition. Applicants will receive a Letter of Conditions and instructions for grant approval from the USDA Rural Development State Office if the application is selected for funding.

**§§ 4284.150–4284.151 [Reserved]**

**§ 4284.152 Letter of Conditions.**

The Letter of Conditions establishes conditions that must be understood and agreed to by the applicant before any obligation of funds can occur. The applicant must sign a Form RD 1942–46, ''Letter of Intent to Meet Conditions,'' and a Form RD 1940–1, ''Request for Obligation of Funds,'' if they wish to accept the conditions of the grant. These forms will be enclosed with the Letter of Conditions. The grant will be obligated when the USDA Rural Development State Office receives an executed Letter of Intent and Request for Obligation of Funds from the applicant.

**§ 4284.153 Grant Agreement.**

The applicant will also be required to sign a Form RD 4284–1, ''Grant Agreement,'' which is a contract between the grantee and USDA Rural Development for receipt of grant funds under the RBEG Program. The Grant Agreement will also be enclosed with the Letter of Conditions and must be signed and returned to the USDA Rural Development State Office before any grant funds can be disbursed.

**§§ 4284.154–4284.155 [Reserved]**

**§ 4284.156 Timeframe for use of grant funds.**

The grant period will be established in your Letter of Conditions for a 12-month timeframe unless USDA Rural Development approves the scope of work or work plan for a longer period of time.

**§ 4284.157 Financial management system.**

The grantee will provide for a financial management system, which will include:

(a) Accurate, current, and complete disclosure of the financial result of each grant.

(b) Records that identify adequately the source and application of funds for grant-supporting activities, together with documentation to support the records. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(c) Effective control over and accountability for all funds, property and other assets. Grantee shall adequately safeguard all such assets and assure that funds are used solely for authorized purposes.

**§ 4284.158 Grant disbursement.**

Grant funds are disbursed on a reimbursement basis except if they are for revolving loan funds. Grant disbursement for revolving loan funds will be advanced. The financial management system of the grantee must provide for effective control and accountability of all funds. Grant funds may be requested as follows:

(a) *Reimbursement requests.* An SF–270, ''Request for Advance or Reimbursement,'' may be submitted to USDA Rural Development once every 30 days for reimbursement on allowable grant expenses. A pro rata portion of supplemental funds must be included in the request. An SF–271, ''Outlay Report and Request for Reimbursement for Construction Programs,'' or similar form may be submitted to USDA Rural Development once every 30 days on construction projects.

(b) *Advance requests.* An SF–270 may be submitted once every 30 days for an advance of funds. A pro rata portion of supplemental funds must be included in the request for an advance. Before any grant funds can be advanced, the grantee must submit information on each loan that they are proposing to make for review and concurrence by USDA Rural Development. The specific information required is defined in § 4284.184. Grantees must remit any interest earned on advanced grant funds. Interest should be forwarded to USDA Rural Development on a quarterly basis.

**§§ 4284.159–4284.160 [Reserved]**

**§ 4284.161 Insurance requirements.**

(a) Fidelity bond coverage will be required on grantees that are nonprofit organizations. Coverage may be provided either for all individual positions or persons, or through blanket coverage that provides protection for all appropriate employees and officials. The amount of coverage will be at least equal to the maximum amount of monies that the grantee will have on hand at any one time. The grantee must renew fidelity bond coverage on a yearly basis if they are operating a revolving loan fund. There are no fidelity bond coverage requirements for a public body.

(b) Hazard insurance will be maintained by grantees whose project involves purchase or improvements to real property or purchase of machinery or equipment. In the case of a revolving loan fund, the loan recipient will be required to maintain hazard insurance with a standard mortgagee clause naming the grantee as beneficiary as long as a lien exists. The grantee's interest in the insurance will be assigned to USDA Rural Development, upon USDA Rural Development's request, in the event of termination of the revolving loan fund. The amount of coverage should be at least the lesser of the depreciated replacement value of the property being insured or the amount of the grant or loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, vehicle, marine, smoke, builder's risk, public liability, property damage, and any other hazard insurance that may be required to protect the property being insured or the grantee's security.

(c) Worker's compensation insurance will be required on the grantee and any recipient who receives a loan from a revolving loan fund in accordance with State law.

(d) Flood insurance will be required on grantees and loan recipients if their project is located in a special flood or mudslide hazard area.

**§§ 4284.162–4284.163 [Reserved]**

**§ 4284.164 Changes in scope of work, work plan or budget.**

(a) Prior approval must be obtained from USDA Rural Development for any of the following changes to the approved project:

(1) Project scope or objectives;

(2) Need to extend the period of availability of funds;

(3) Change in key personnel as specified in the application;

(b) Prior approval must be obtained from USDA Rural Development for any of the following budget revisions:

(1) Transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa;

(2) Transfer of amounts previously budgeted for training allowances to other categories of expense;

(3) Costs that require prior approval in accordance with the applicable OMB cost principles circulars; or

(4) Need for additional funds.

(c) Prior approval must be obtained from USDA Rural Development on projects that have both construction and nonconstruction activities before making any fund or budget transfer from the nonconstruction or construction budgets or vice versa.

(d) Prior approvals will not be valid unless they are in writing and approved by USDA Rural Development. Failure to obtain prior approval of changes to the approved project or budget may result in suspension or termination of grant funds.

**§§ 4284.165–4284.166 [Reserved]**

**§ 4284.167 Reporting requirements.**

(a) *Project performance reports.* Grantees shall constantly monitor performance to ensure time schedules and other performance objectives are being achieved. A project performance report is not required for construction projects. On-site technical inspections and certified percentage-of-completion data will serve as the performance monitoring system for construction projects. This will be done in accordance with RD Instruction 1942–A, § 1942.18. A project performance report is required for all non-construction projects on a quarterly basis. The report is due 30 days after the end of the quarter. The final report can serve as the last quarterly report. The report should include the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) Reasons why established goals were not met;

(3) Any significant developments that would have an adverse or favorable affect on the overall project objectives. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation;

(4) Objectives and timetables for the next reporting period; and

(5) Additional information on the final report as follows:

(i) Actual accomplishments as a result of the grant, i.e. number of jobs created, saved, and number of businesses assisted or other performance goals established in the scope of work.

(ii) What have been the most challenging or unexpected aspects of this program?

(iii) What advice would the grantee give to other organizations planning a similar program? These should include strengths and limitations of the program. If the grantee had the opportunity, what would they have done differently?

(iv) If an innovative approach was used successfully, the grantee should describe its program in detail so that other organizations might consider replication in their areas.

(b) *Financial reports.* The following financial reports will be required and are available in any USDA Rural Development State Office:

(1) *All projects.* An SF 269 or 269A, ''Financial Status Report,'' is required for all nonconstruction and construction projects on a quarterly basis. The report is due 30 days after the end of the quarter. SF 269A may be used by the grantee if there is no program income being generated in the project.

(2) *Additional revolving loan fund reports.* Grantees will also be required to submit a Form RD 1951–4, ''Reporting of IRP/RDLF Lending Activity,'' report on a quarterly basis until all of the grant funds have been loaned out to small businesses. The report is due 30 days after the end of the quarter. Thereafter, reports will be required semiannually 30 days after the end of the period.

(c) *Audits.* Grantees must provide an annual audit in accordance with 7 CFR part 3052. USDA Rural Development will inform the grantee of its auditing requirements.

**§§ 4284.168–4284.169 [Reserved]**

**§ 4284.170 Site visits.**

(a) The grantee is responsible for managing the day-to-day operations of the project to ensure time schedules are met and that performance goals are achieved. However, USDA Rural Development will make site visits, as necessary, to assure compliance with applicable Federal requirements. After all grant funds have been disbursed for revolving loan fund, capital improvements or equipment purchase projects, a site visit will occur every 3 years until the project is transferred, terminated, disposed of, or has met its useful life term in accordance with the Grant Agreement.

(b) During the site visit the USDA Rural Development representative will perform and document due diligence if actual or potential site contamination by hazardous materials or petroleum products is observed on the site or adjacent sites. Due diligence documentation is necessary to assure USDA Rural Development maintains lender liability protection under the Comprehensive Environmental Response, Conservation and Liability Act (CERCLA).

(c) Site visits can include a civil rights compliance review; a physical inventory of any property purchased or improved with grant funds or equipment purchased with grant funds; a revolving loan fund review to ensure the fund is still operating in accordance with the work plan, if applicable; and other reviews as needed to ensure the project is in compliance with the Letter of Conditions and Grant Agreement.

**§§ 4284.171–4284.172 [Reserved]**

**§ 4284.173 Record retention.**

USDA Rural Development must have access to grantees records including financial, supporting documents, statistical or other records pertinent to the grant. Records must be retained for 3 years after the date of the final grant disbursement unless there is:

(a) Any litigation, claim, negotiation, audit or other action involving the records that have been started before the expiration date of the 3-year period. The records must be retained until completion of the action and resolution of all issues that arise from it or until the end of the regular 3-year period, whichever is later.

(b) Real property; equipment; and revolving loan fund project records. Records must be retained until transfer, termination, disposition, or replacement occurs or the useful life term has expired in accordance with the grant agreement. The 3-year retention period would start the date of transfer, termination, disposition, replacement or the date the useful life term has expired.

(c) Indirect cost rate proposals, cost allocation plans, etc. Records must be retained for 3 years from the date the proposal is submitted for negotiation. If the proposal is not required to be submitted for negotiation, then the 3-year retention period starts the end of the fiscal year covered by the proposal.

**§§ 4284.174–4284.177 [Reserved]**

**§ 4284.178 Disposition of real property, equipment, and supplies.**

(a) If grant funds are used to acquire or improve real property, and if the property is sold or is no longer needed for any reason, USDA Rural Development will have an interest in the current fair market value of the property in proportion to its participation in the project. Installation or improvements to utilities or streets in the public right of way is considered improving the surrounding property or land owned by the grantee. USDA Rural Development also has the right to the current fair market value of that property in proportion to its participation in the project if that property is sold or not used for its originally approved purpose. The

grantee may be required to file a Notice of Interest when grants funds are used to purchase or improve real property unless it is prohibited by State law.

(b) If grant funds are used to purchase equipment and the equipment is no longer needed for any reason, the grantee may retain, sell or otherwise dispose of the equipment with no further obligation to USDA Rural Development if the current fair market value of the equipment (per unit) is less than $5,000. However, if the current fair market value (per unit) is $5,000 or more USDA Rural Development has the right to an amount calculated by multiplying the current fair market value (per unit) if it is retained or proceeds from the sale if sold by the Federal share of the equipment.

(c) If the grant funds are used to purchase supplies and the grant is closed out, the grantee may keep unused supplies if the total aggregate fair market value of the supplies was less than $5,000. Otherwise, the grantee will compensate USDA Rural Development the current fair market value of the unused supplies to its participation.

**§§ 4284.179–4284.180 [Reserved]**

**§ 4284.181 Construction requirements.**

Section 1942.18 of this title will be followed in the planning and performance of construction projects.

**§§ 4284.182–4284.183 [Reserved]**

**§ 4284.184 Clarification of revolving loan fund operation.**

The following paragraphs will provide clarification on operating revolving loan funds under this subpart:

(a) A revolving loan fund must be operated on a long-standing basis and not duplicate services provided by an existing loan fund serving the same geographic area. It should not be established to assist one small business with a short-term working capital need and never have another loan made from it to assist other small businesses.

(b) A third-party with required experience can be hired to do the credit and financial analysis, but the grantee is still responsible for approving loans and managing the fund. USDA Rural Development will review and concur in any service agreement when this is the case before the grant is approved.

(c) Grantees are required to deposit grant funds and the 20 percent matching funds into a separate FDIC insured account. A control agreement will be executed to allow USDA Rural Development a security interest in the revolving loan fund deposit account as well as access to account information. The control agreement will also ensure that the deposit account/revolving loan fund will not be closed without prior approval of USDA Rural Development.

(d) Loans made from the revolving loan fund must be for purposes in accordance with the revolving loan fund work plan. However, the loan purposes are limited to the eligible purposes defined in paragraphs (a) through (c) of § 4284.109, working capital and debt refinancing.

(e) Loans made from the revolving loan fund must be economically feasible to ensure sustainability of the revolving loan fund.

(f) The receivables created by making loans from the fund, the grantee's security interest in collateral pledged by small businesses, collections on the receivables, interest, fees, and any other income from the operation of the revolving loan fund are considered to be part of the revolving loan fund.

(g) All debt instruments and collateral documents used by the grantee in connection with making loans from the fund must be assignable. Security for a loan from the revolving loan fund to a third party will be negotiated between the grantee and the third party within the policies established in the work plan.

(h) USDA Rural Development will review and concur in each loan the grantee is proposing to make until all of the grant funds are expended. Eligibility, environmental concerns, and other issues necessary to ensure sustainability of the fund will be reviewed. The following will be required for each loan:

(1) A copy of the application;

(2) Loan Committee recommendation or write-up;

(3) Intergovernmental comments;

(4) Small business certification;

(5) Form RD 1940–20;

(6) Form AD 1048, ''Certification of Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions;'' and

(7) Form RD 400–4.

(i) USDA Rural Development loan review and concurrence will not be necessary once the grantee lends out an amount equal to the grant. However, the grantee must continue to operate the revolving loan fund in accordance with the work plan, collect civil rights data and obtain all required items defined in paragraphs (h)(1) through (7) of this section for each loan made thereafter. USDA Rural Development will conduct a site visit at least every 3 years to ensure the grantee is complying with all Federal requirements and administering the fund in accordance with the work plan.

(j) Grantees may use principal and interest payments plus fee income received from their borrowers (revolved funds) for debt service, administrative expenses, or making additional loans.

(k) A reasonable amount of revolved funds should be used to create a reserve for bad debts. USDA Rural Development recommends a reserve for bad debts of 6 percent of outstanding loans, which can be accumulated over 3 years and should be maintained from then on.

(l) Grantees may also use up to a maximum of 20 percent of interest and fee income per fiscal year for the administrative costs associated with operating the revolving loan fund.

(m) Failure, inability or unwillingness of the grantee to carry out or comply with the work plan, grant agreement or any applicable Federal or State law is cause for termination. If the grant is terminated, USDA Rural Development takes control of the deposit account in which the fund is located, the pending note receivables and any security interest pledged on the pending note receivables.

**§§ 4284.185–4284.188 [Reserved]**

**§ 4284.189 Grant termination.**

The grant award can be terminated in the following situations:

(a) *Termination for cause.* If the grantee fails to comply with the conditions of the Letter of Conditions or the Grant Agreement, USDA Rural Development can terminate the grant. USDA Rural Development will notify the grantee in writing of the decision to terminate, including the reasons and the effective date of the grant termination.

(b) *Termination by mutual agreement.* The grantee must provide written notification to USDA Rural Development explaining the reasons why they wish to terminate the grant and the proposed effective date. If USDA Rural Development mutually agrees that the continuation of the project would not produce beneficial results the grant can be terminated.

(c) *Deobligation of grant funds.* USDA Rural Development will automatically deobligate grant funds if a project is not completed within 3 years from the date of obligation.

**§ 4284.190 Transfer and assumptions.**

USDA Rural Development will not approve any transfer and assumptions on grants awarded under this subpart.

**§§ 4284.191–4284.193 [Reserved]**

**§ 4284.194 Appeal rights.**

The applicant or grantee may have review or appeal rights on adverse decisions made by USDA Rural

Development. Written instructions will be provided to the applicant or grantee by USDA Rural Development when review or appeal rights are applicable in accordance with 7 CFR part 11.

**§§ 4284.195–4284.200 [Reserved]**

Dated: March 29, 2007.

**Thomas C. Dorr,**

*Under Secretary, Rural Development.*

[FR Doc. 07–1922 Filed 4–19–07; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2007–27926; Directorate Identifier 2006–NM–050–AD]**

**RIN 2120–AA64**

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

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

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

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Airbus Model A300 B2 and B4 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes. The existing AD currently requires repetitive inspections to detect cracking of the upper radius of the forward fitting of frame 47, and repair if necessary. This proposed AD would reduce inspection thresholds and repetitive intervals, and add related investigative and corrective actions. This proposed AD also would provide an optional terminating action for the repetitive inspections only for airplanes with cracking that is within certain limits. This proposed AD results from reports of additional cracking in airplanes that were inspected in accordance with the existing AD. We are proposing this AD to detect and correct fatigue cracking of the left and right upper radius at frame 47, which could propagate and result in reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by May 21, 2007.

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Thomas Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2007–27926; Directorate Identifier 2006–NM–050–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

### Examining the Docket

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

### Discussion

On March 18, 2003, we issued AD 2003–06–04, amendment 39–13091 (68 FR 14894, March 27, 2003), for all Airbus Model A300 B2 and B4 series airplanes, and Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes. That AD requires repetitive inspections to detect cracking of the upper radius of the forward fitting of frame 47, and repair if necessary. That AD resulted from issuance of mandatory continuing airworthiness information by a civil airworthiness authority. We issued that AD to detect and correct such fatigue cracking, which could result in propagation of the cracking to the rear fitting and reduced structural integrity of fuselage frame 47.

### Actions Since Existing AD Was Issued

Since we issued AD 2003–06–04, cracks were found on the left and right upper radius at frame 47 at 48,000 simulated flights, and at 18,000 total flights on an in-service airplane. In-service experience up to 2001 showed there was no propagation of cracking between 30 millimeters (mm) and 40 mm in size. In mid-2001, a crack of 110 mm in size was found on a scrapped Model A300 B4–200 airplane with 23,700 total flights. Further sampling inspections revealed two Model A300 airplanes with cracks greater in size than the defined limit of 50 mm. Based on these last investigation results, Airbus established a revised inspection program that:

- Redefines the threshold and repetitive interval values; and
- Introduces corrective measures in the event of abnormal load events (e.g., hard landing and flight with turbulence). Definitions of abnormal load events are in the applicable airplane maintenance manual.

### Relevant Service Information

Airbus has issued the service bulletins described in the following table.

AIRBUS SERVICE BULLETINS

| Service bulletin type | For model A300 airplanes | For model A300–600 series airplanes |
|---|---|---|
| Inspection service bulletins | A300–53–0246, Revision 06, including Appendix 01, dated October 19, 2005. | A300–53–6029, Revision 08, including Appendix 01, dated October 19, 2005. |
| Optional terminating service bulletins | A300–53–0370, including Appendix 01, dated July 16, 2004. | A300–53–6144, including Appendix 01, dated July 16, 2004. |

The inspection service bulletins are newer revisions of the service bulletins that were referenced as the appropriate sources of service information for accomplishing the actions required by AD 2003–06–04. The newer revisions take into account the latest investigation results from Airbus, described above, and establish a revised inspection program. The inspection service bulletins specify reporting all inspection results to Airbus.

The inspection service bulletins describe procedures for repetitive eddy current inspections to detect cracking of the upper radius of the forward fitting of frame 47, and applicable related investigative and corrective actions, as described in the following table.

RELATED INVESTIGATIVE AND CORRECTIVE ACTIONS FOLLOWING EDDY CURRENT INSPECTION

| Finding or occurrence | Corrective action | Related investigative action |
|---|---|---|
| No crack | Modify the fairing attachment profile by cutting and removing the fairing attachment profile between frame 47 and frame 48, and trimming the keel beam at frame 47. This action is specified only after the first eddy current inspection. | Eddy current inspection for cracking of the upper radius (after the keel beam has been trimmed and while the attachment profile is removed). |
| More than one crack | Contact Airbus for repair instructions | Detailed visual inspection for cracking of the aft fitting around the fasteners. |
| Crack less than or equal to 8 mm in size | Do the repetitive eddy current inspection at a reduced interval. | None. |
| Crack greater than 8 mm in size, but less than or equal to 20 mm in size. | Remove, modify, and reinstall the sealing fitting and sealing shim. This action is specified only after the first eddy current inspection with a crack finding of this size. Do the repetitive eddy current inspection at a reduced interval. | Ultrasonic inspection for cracking of the forward fitting. |
| Crack greater than 20 mm in size, but less than or equal to 50 mm in size. | Contact Airbus for repair instructions if any crack is found during the detailed visual inspection; if no further cracking is found, do the repetitive eddy current inspection at a reduced interval. | Detailed visual inspection for cracking of the aft fitting around the fasteners. |
| Crack greater than 50 mm in size | Repair in accordance with the optional terminating service bulletins and contact Airbus for repair instructions. | None. |
| Abnormal load event on an airplane with any crack finding. | Report the event to Airbus and do the next repetitive eddy current inspection within 3 months after the event; or, if the first eddy current inspection has not yet been done, contact Airbus before further flight. | None. |

As noted in the table above, the repetitive intervals for the special detailed inspection vary according to the crack finding. The following table is a summary of the repetitive intervals given in Figure 1, Sheet 1, of the inspection service bulletins.

REPETITIVE INTERVALS BASED ON CRACK FINDING

| Finding | Repetitive interval |
|---|---|
| No crack | 4,150 flight cycles. |
| Crack less than or equal to 30 mm | 1,400 flight cycles. |
| Crack greater than 30 mm but less than or equal to 40 mm | 750 flight cycles. |
| Crack greater than 40 mm but less than or equal to 50 mm | 250 flight cycles. |

The optional terminating service bulletins apply only if a crack is greater than 30 mm but less than or equal to 50 mm in size. The optional terminating service bulletins specify contacting Airbus for repair instructions, special tooling, and the use of trained personnel for accomplishing the repair because of the high risk of serious damage to the frame 47 forward fitting, which could lead to a repair beyond the economical limit.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe

condition. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, mandated the service information and issued French airworthiness directive F–2006–016, dated January 18, 2006, to ensure the continued airworthiness of these airplanes in France.

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

These airplane models are manufactured in France and are 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. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that AD action is necessary for airplanes of this type design that are certificated for operation in the United States.

This proposed AD would supersede AD 2003–06–04, and would continue to require repetitive inspections to detect cracking of the upper radius of the forward fitting of frame 47, and repair if necessary. This proposed AD would also continue to require the report to Airbus that was required by the existing AD.

This proposed AD would reduce inspection thresholds and repetitive intervals, and add related investigative and corrective actions. This proposed AD also would provide an optional terminating action for the repetitive inspections only for airplanes with cracking that is within certain limits. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Among the Proposed AD, the Service Information, and the French Airworthiness Directive.''

**Differences Among the Proposed AD, the Service Information, and the French Airworthiness Directive**

The inspection service bulletins referenced by the French airworthiness directive specify contacting Airbus for certain instructions. This proposed AD would require doing those actions according to a method that we or the European Aviation Safety Agency (EASA) (or its delegated agent) approve. In light of the actions that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a method we or the EASA approve would be acceptable for compliance with this proposed AD.

The French airworthiness directive does not specify repair instructions for crack findings of greater than 50 mm, and the inspection service bulletins specify doing actions in the optional terminating service bulletins and contacting Airbus for repair instructions. This proposed AD would instead require repairing those conditions using a method that we approve.

Where the optional terminating service bulletins specify sending a geometrical plan to Airbus after doing the repair, this proposed AD would require providing a post-repair inspection program to us for approval within 6 months after doing the repair.

These differences have been coordinated with EASA.

**Flight With Cracking**

Operators should note that this proposed AD permits further flight with cracking within certain limits. While it is not the FAA's policy to allow flight with known cracking, we have determined that, for the purposes of this proposed AD, repair may be deferred for certain crack lengths. In making this determination, we considered that long-term continued operational safety in this case will be adequately ensured by repetitive inspections to detect cracking before it represents a hazard to the airplane, and by repair if the crack exceeds the specified limit.

We also considered that cracks that are less than 30 mm in size are not physically accessible and would require removing frame 47 to repair, which is not economically viable. The proposed inspection program will mitigate any safety concerns for cracks of this size.

Cracks of 30 mm to 50 mm in size are also acceptable for flight, but this proposed AD would require a more rigorous inspection program for cracks of this size. If operators strictly observe the crack size limits and perform repetitive inspections at required intervals, operators can detect any cracks that grow beyond the limits and take corrective action before the crack size creates an unacceptable risk of structural failure.

The DGAC concurs with these findings. In consideration of these findings and the FAA's criteria for flight with known cracking, further flight with cracking within certain limits is permissible for an interim period in this case.

**Changes to Existing AD**

This proposed AD would retain certain requirements of AD 2003–06–04. Since AD 2003–06–04 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

| Requirement in AD 2003–06–04 | Corresponding requirement in this proposed AD |
|---|---|
| Paragraph (a) ..... | paragraph (f). |
| Paragraph (b) ..... | paragraph (g). |
| Paragraph (c) ..... | paragraph (h). |
| Paragraph (d) ..... | paragraph (i). |
| Paragraph (e) ..... | paragraph (q). |

We have also clarified the applicability of the proposed AD in the following ways:

- To match more closely the applicability of the parallel French airworthiness directive.
- To identify model designations as published in the most recent type certificate data sheet for the affected models.

We have revised this proposed AD to clarify the appropriate procedure for notifying the principal inspector before using any approved alternative method of compliance (AMOC) on any airplane to which the AMOC applies.

**Costs of Compliance**

There are about 163 U.S.-registered airplanes that would be affected by this proposed AD. The following table provides the estimated costs for U.S. operators to comply with this proposed AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

| Action | Work hours | Parts | Cost per airplane | Fleet cost |
|---|---|---|---|---|
| Actions required by AD 2003–06–04 .. | 9 | $0 | $720, per inspection cycle ..... | $117,360, per inspection cycle. |
| Inspection (new proposed action) ..... | 1 | 0 | $80, per inspection cycle ..... | $13,040, per inspection cycle. |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13091 (68 FR 14894, March 27, 2003) and adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA–2007–27926; Directorate Identifier 2006–NM–050–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by May 21, 2007.

**Affected ADs**

(b) This AD supersedes AD 2003–06–04.

**Applicability**

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

**Unsafe Condition**

(d) This AD results from reports of additional cracking in airplanes that were inspected in accordance with AD 2003–06–04. We are issuing this AD to detect and correct fatigue cracking of the left and right upper radius at frame 47, which could propagate and result in reduced structural integrity of the airplane.

**Compliance**

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

**Requirements of AD 2003–06–04**

*Model A300–600: Inspection*

(f) For Model A300–600 series airplanes: At the earlier of the times specified by paragraphs (f)(1) and (f)(2) of this AD, perform an eddy current inspection to detect cracking of the upper radius of the left and right forward fitting of frame 47, in accordance with Airbus Service Bulletin A300–53–6029, Revision 02, dated November 7, 1994; Revision 05, dated April 11, 2001; or Revision 08, including Appendix 01, dated October 19, 2005. After the effective date of this AD, only Revision 08 of the service bulletin may be used.

(1) Before the accumulation of 17,300 total flight cycles, or within one year after October 16, 1996 (the effective date of AD 96–18–18, amendment 39–9744), whichever occurs later.

(2) At the later of the times specified by paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) Before the accumulation of 10,000 total flight cycles or 26,000 total flight hours, whichever occurs first.

(ii) Within 750 flight cycles or 1,900 flight hours, whichever occurs first after May 1, 2003 (the effective date of AD 2003–06–04).

*Model A300–600: Follow-On (Repetitive) Inspections*

(g) For Model A300–600 series airplanes on which no cracking is found during any inspection required by paragraph (f) of this AD, repeat the inspection required by paragraph (f) of this AD at the applicable times specified in paragraphs (g)(1) and (g)(2) of this AD until the inspection required by paragraph (j) of this AD is done.

(1) If the initial inspection was accomplished before May 1, 2003, repeat the inspection at the later of the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD. Thereafter, repeat the inspection at intervals not to exceed 6,100 flight cycles or 15,600 flight hours, whichever occurs first.

(i) Re-inspect within 6,100 flight cycles after the initial inspection.

(ii) Re-inspect within 750 flight cycles or 1,900 flight hours, whichever occurs first after May 1, 2003.

(2) If the initial inspection was not accomplished before May 1, 2003, repeat the inspection thereafter at intervals not to exceed 6,100 flight cycles or 15,600 flight hours, whichever occurs first.

*Model A300–600: Corrective Action*

(h) For Model A300–600 series airplanes on which any cracking is found during any inspection required by paragraph (f) of this AD: Before further flight, contact the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated representative), or the European Aviation Safety Agency (EASA) (or its delegated agent); for instructions regarding repair or for an applicable re-inspection interval, in accordance with Airbus Service Bulletin A300–52–6029, Revision 05, dated April 11, 2001; or Revision 08, including Appendix 01, dated October 19, 2005. After the effective date of this AD, only Revision 08 may be used. Repair and/or re-inspection accomplished before May 1, 2003, in accordance with a method approved by the Manager, International Branch, ANM–116, is acceptable for compliance with the requirements of paragraph (h) of this AD.

*Model A300 B2 and B4: Repetitive Inspections and Follow-On Actions*

(i) For Model A300 B2 and B4 series airplanes: At the applicable time specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD, perform repetitive eddy current inspections to detect cracking of the upper radius of the forward fitting of frame 47, left and right sides, per Airbus Service Bulletin A300–53–0246, Revision 03, dated April 11, 2001; or Revision 06, including Appendix 01, dated October 19, 2005. After the effective date of this AD, only Revision 06 may be used. Accomplishing this requirement terminates the corresponding inspection requirement of the A300 Supplemental Structural Inspection Document (SSID) for Model A300 B2 and B4 series airplanes. (That SSID is mandated by AD 96–13–11, amendment 39–9679.)

(1) For Model A300 B2 series airplanes: Perform the initial inspection at the later of the times specified by paragraphs (i)(1)(i) and (i)(1)(ii) of this AD. Repeat the inspection thereafter at intervals not to exceed 10,400 flight cycles or 13,300 flight hours, whichever occurs first, until the inspection in paragraph (j) of this AD is done.

(i) Before the accumulation of 16,500 total flight cycles or 21,000 total flight hours, whichever occurs first.

(ii) Within 1,000 flight cycles or 1,300 flight hours after May 1, 2003, whichever occurs first.

(2) For Model A300 B4–100 series airplanes: Perform the initial inspection at the later of the times specified by paragraphs (i)(2)(i) and (i)(2)(ii) of this AD. Repeat the inspection thereafter at intervals not to exceed 8,500 flight cycles or 16,400 flight hours, whichever occurs first, until the inspection in paragraph (j) of this AD is done.

(i) Before the accumulation of 10,300 total flight cycles or 19,800 total flight hours, whichever occurs first.

(ii) Within 750 flight cycles or 1,500 flight hours after May 1, 2003, whichever occurs first.

(3) For Model A300 B4–200 series airplanes: Perform the initial inspection at the later of the times specified by paragraphs (i)(3)(i) and (i)(3)(ii) of this AD. Repeat the inspection thereafter at intervals not to exceed 7,000 flight cycles or 13,600 flight hours, whichever occurs first, until the inspection in paragraph (j) of this AD is done.

(i) Before the accumulation of 11,000 total flight cycles or 21,200 total flight hours, whichever occurs first.

(ii) Within 750 flight cycles or 1,500 flight hours after May 1, 2003, whichever occurs first.

**New Requirements of This AD**

*Inspections and Corrective Actions*

(j) At the applicable time in paragraph (k) or (l) of this AD: Except as provided by paragraphs (n) and (p) of this AD, do an eddy current inspection to detect cracking of the upper radius of the forward fitting of frame 47, and do all applicable related investigative and corrective actions, by accomplishing all the applicable actions specified in the Accomplishment Instructions of the applicable service bulletin specified in paragraph (j)(1) or (j)(2) of this AD. Do all applicable investigative and corrective actions before further flight. Where the service bulletins specify to contact Airbus for repair instructions: Before further flight, repair using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent). Doing the inspections required by this paragraph terminates the inspections required by paragraphs (f), (g), and (i) of this AD.

(1) For Airbus Model A300 airplanes: Airbus Service Bulletin A300–53–0246, Revision 06, including Appendix 01, dated October 19, 2005.

(2) For Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes: Airbus Service Bulletin A300–53–6029, Revision 08, including Appendix 01, dated October 19, 2005.

(k) For airplanes on which the inspection required by paragraph (f), (g), or (i) of this AD, as applicable, has not been done prior to the effective date of this AD: Do the initial inspection required by paragraph (j) of this AD before the accumulation of 10,000 total flight cycles, or within 1,400 flight cycles after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at the applicable interval specified in Figure 1, Sheet 1, of the Accomplishment Instructions of the applicable service bulletin.

(l) For airplanes on which the inspection required by paragraph (f), (g), or (i) of this AD, as applicable, has been done prior to the effective date of this AD: Inspect at the applicable times specified in paragraph (l)(1) or (l)(2) of this AD. Repeat the inspection thereafter at the applicable interval specified in Figure 1, Sheet 1, of the Accomplishment Instructions of the applicable service bulletin.

(1) For airplanes on which no cracking was found during any inspection required by this AD: Do the next inspection at the earlier of the times specified in paragraphs (l)(1)(i) and (l)(1)(ii) of this AD.

(i) At the next repetitive interval specified in the applicable service bulletin specified in paragraph (j)(1) or (j)(2) of this AD, or within 1,400 flight cycles after the effective date of this AD, whichever occurs later.

(ii) At the next repetitive interval specified in paragraph (g) or (i) of this AD, as applicable.

(2) For airplanes on which any crack was found during any inspection required by this AD, and the crack is 30 millimeters (mm) (1.181 inch) or less in length: Do the next inspection at the applicable times specified in paragraph (l)(2)(i) or (l)(2)(ii) of this AD.

(i) For Airbus Model A300 airplanes: At the next repetitive interval specified in the service bulletin specified in paragraph (j)(1) of this AD, or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(ii) Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes: At the next repetitive interval specified in the service bulletin specified in paragraph (j)(2) of this AD.

*Abnormal Load Events*

(m) For airplanes on which any abnormal load event occurs after the effective date of this AD, do the actions in paragraph (m)(1), (m)(2), or (m)(3) of this AD, as applicable, at the time specified in the applicable paragraph.

(1) Within 3 months after the event, or at the next applicable repetitive interval required by paragraph (k) or (l) of this AD, whichever occurs first: Do the next repetitive inspection required by paragraph (j) of this AD.

(2) Before further flight following any additional abnormal load event that occurs following the first event but before the next repetitive inspection required by paragraph (k) or (l) of this AD: Contact the Manager, International Branch, ANM–116, or the EASA (or its delegated agent) for further instructions.

(3) Within 3 months after any abnormal load event: Report the event to Airbus in accordance with the requirements of paragraph (q) of this AD.

*Optional Terminating Action (Repair) for Certain Cracks*

(n) Repairing any crack greater than 30 mm but less than or equal to 50 mm in size in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–0370, including Appendix 01, dated July 16, 2004; or Airbus Service Bulletin A300–53–6144, including Appendix 01, dated July 16, 2004; as applicable; terminates the repetitive inspection requirements of paragraph (k) or (l) of this AD for that area only. Where the service bulletins specify to contact Airbus for repair instructions: Repair the crack using a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent).

*Repetitive Inspections Following Optional Terminating Action*

(o) Within 6 months after repair in accordance with paragraph (n) of this AD: Submit a post-repair inspection program for monitoring the repair to the Manager, International Branch, ANM–116, for approval.

*Repair of Any Crack Greater than 50 mm in Size*

(p) If any crack that is greater than 50 mm in size is found during any inspection required by paragraph (j), (k), or (l) of this AD: Before further flight, repair according to a method approved by the Manager, International Branch, ANM–116.

*Reporting Requirement*

(q) At the applicable time specified in paragraph (q)(1) or (q)(2) of this AD: Submit a report of all results of each inspection required by this AD to Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, Attention: Jacques Leborgne, fax 33–5–61–93–36–14. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit the report within 30 days after performing the inspection.

(2) For airplanes on which the inspection has been accomplished before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

*Actions Accomplished in Accordance With Previous Issues of Service Bulletins*

(r) Actions done before the effective date of this AD in accordance with the service bulletins listed in Table 1 of this AD are acceptable for compliance with the corresponding requirements of paragraphs (i) and (j) of this AD.

TABLE 1.—PREVIOUS ISSUES OF SERVICE BULLETINS

| Model | Airbus Service Bulletin | Revision level | Date |
|---|---|---|---|
| A300 airplanes | A300–53–0246 | 03 | April 11, 2001. |
| | A300–53–0246 | 04 | November 12, 2002. |
| | A300–53–0246 | 05 | January 19, 2004. |
| A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes. | A300–53–6029 | 05 | April 11, 2001. |
| | A300–53–6029 | 06 | November 12, 2002. |
| | A300–53–6029 | 07 | January 19, 2004. |

*Alternative Methods of Compliance (AMOCs)*

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

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

(3) AMOCs approved previously in accordance with AD 2003–06–04 are approved as AMOCs with this AD until paragraph (j) of this AD is accomplished.

*Related Information*

(t) French airworthiness directive F–2006–016, dated January 18, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on April 12, 2007.

**Ali Bahrami,**

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

[FR Doc. E7–7516 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2007–27927; Directorate Identifier 2006–NM–182–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A300 Series Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus A300 series airplanes. This proposed AD would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors caused by latent failures, alterations, repairs, or maintenance actions, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by May 21, 2007.

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–27927; Directorate Identifier 2006–NM–182–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

### Examining the Docket

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

### Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection

Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, notified us that an unsafe condition may exist on all Airbus Model A300 series airplanes. The EASA advises that Airbus has issued new fuel airworthiness limitations (FALs) to address failure conditions for which an unacceptable probability of ignition risk could exist if specific tasks or practices or both are not performed in accordance with the manufacturer's requirements. The new FALs are intended to satisfy the JAA's Interim Policy of Fuel Tank Safety and SFAR 88 requirements.

**Relevant Service Information**

Airbus has issued A300 Fuel Airworthiness Limitations, Document 95A.1928/05, Issue 1, dated December 19, 2005 (approved by the EASA on March 13, 2006). Section 1, ''Maintenance/Inspection Tasks,'' of Document 95A.1928/05 describes certain FAL inspections, which are periodic inspections of certain features for latent failures that could contribute to an ignition source. Section 2, ''Critical Design Configuration Control Limitations,'' of Document 95A.1928/05 identifies critical design configuration control limitations (CDCCLs). A CDCCL is a limitation requirement to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006–0200, dated July 11, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

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

This airplane model is manufactured in France 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. As described in FAA Order 8100.14A, ''Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness,'' dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

**Differences Between the Proposed AD and EASA Airworthiness Directive**

For airplanes that have exceeded 34,000 total flight hours as of effective date of the EASA airworthiness directive 2006–0200, the EASA airworthiness directive states that Task 28–18–00–03–1, ''Operational check of lo-level/underfull/calibration sensors,'' must be done within 6 years or 20,000 flight hours after the effective date. This AD, however, would require accomplishing Task 28–18–00–03–1 at the later of the following compliance times: (1) Prior to the accumulation of 40,000 total flight hours, or (2) within 72 months or 20,000 flight hours after the effective date of this AD, whichever occurs first. The EASA is considering further rulemaking to implement this change in the compliance time.

EASA airworthiness directive 2006–0200 states that the defined intervals for the FALs have to be counted from the effective date of the EASA airworthiness directive. This proposed AD would instead start counting the first interval of the FALs from the later of the following compliance times: (1) The effective date of this AD, or (2) the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness. The EASA also is considering further rulemaking to implement this change in the compliance time.

**Clarification of Service Information**

EASA airworthiness directive 2006–0200 requires adherence to certain maintenance and inspection tasks in ''* * * Airbus ALS Part 5, Fuel Airworthiness Limitations as defined in document A300 Fuel Airworthiness Limitations, 95A.1928/05 at Issue 1 * * * ''. However, Airbus has not yet published a document titled, ''Airbus ALS Part 5, Fuel Airworthiness Limitations,'' for Model A300 series airplanes. This proposed AD instead refers only to Airbus A300 Fuel Airworthiness Limitations, Document 95A.1928/05, Issue 1; the maintenance

and inspections tasks are found in Section 1 of that document.

**Costs of Compliance**

This proposed AD would affect about 30 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $4,800, or $160 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA–2007–27927; Directorate Identifier 2006–NM–182-AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by May 21, 2007.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Airbus Model A300 series airplanes, certificated in any category, except Airbus Model A300–600 series airplanes.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new inspections and critical design configuration control limitations (CDCCLs). Compliance with the operator maintenance documents is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections and CDCCLs, the operator may not be able to accomplish the inspections and CDCCLs described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections and CDCCLs that will preserve the critical ignition source prevention feature of the affected fuel system.

**Unsafe Condition**

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

**Compliance**

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

**Revise Airworthiness Limitations Section (ALS) to Incorporate Fuel Maintenance and Inspection Tasks**

(f) Within 3 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A300 Fuel Airworthiness Limitations, Document 95A.1928/05, Issue 1, dated December 19, 2005 (approved by the European Aviation Safety Agency (EASA) on March 13, 2006), Section 1, ''Maintenance/Inspection Tasks.'' For all tasks identified in Section 1 of Document 95A.1928/05, the initial compliance times start from the later of the times specified in paragraphs (f)(1) and (f)(2) of this AD, and the repetitive inspections must be accomplished at the interval specified in Section 1 of Document 95A.1928/05, except as provided by paragraph (g) of this AD.

(1) The effective date of this AD.

(2) The date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness.

**Initial Compliance Time for Task 28–18–00–03–1**

(g) For Task 28–18–00–03–1, ''Operational check of lo-level/underfull/calibration sensors,'' identified in Section 1, ''Maintenance/Inspection Tasks,'' of Airbus A300 Fuel Airworthiness Limitations, Document 95A.1928/05, Issue 1, dated December 19, 2005: The initial compliance time is the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD. Thereafter, Task 28–18–00–03–1 must be accomplished at the repetitive interval specified in Section 1 of Document 95A.1928/05.

(1) Prior to the accumulation of 40,000 total flight hours.

(2) Within 72 months or 20,000 flight hours after the effective date of this AD, whichever occurs first.

**Revise ALS to Incorporate CDCCLs**

(h) Within 12 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A300 Fuel Airworthiness Limitations, Document 95A.1928/05, Issue 1, dated December 19, 2005 (approved by the EASA on March 13, 2006), Section 2, ''Critical Design Configuration Control Limitations.''

**No Alternative Inspections, Inspection Intervals, or CDCCLs**

(i) Except as provided by paragraph (j) of this AD: After accomplishing the actions specified in paragraphs (f) and (h) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used.

**Alternative Methods of Compliance (AMOCs)**

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

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures 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**

(k) EASA airworthiness directive 2006–0200, dated July 11, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on April 11, 2007.

**Stephen P. Boyd,**

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

[FR Doc. E7–7517 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2007–27925; Directorate Identifier 2006–NM–183–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A310 Series Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A310 series airplanes. This proposed AD would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors caused by latent failures, alterations, repairs, or maintenance actions, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by May 21, 2007.

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–27925; Directorate Identifier 2006–NM–183–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

### Examining the Docket

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

### Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation

Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, notified us that an unsafe condition may exist on all Airbus Model A310 series airplanes. The EASA advises that Airbus has issued new fuel airworthiness limitations (FALs) to address failure conditions for which an unacceptable probability of ignition risk could exist if specific tasks or practices or both are not performed in accordance with the manufacturer's requirements. The new FALs are intended to satisfy the JAA's Interim Policy of Fuel Tank Safety and SFAR 88 requirements.

**Relevant Service Information**

Airbus has issued A310 ALS—Airworthiness Limitations Section, dated May 31, 2006, which is a repository for stand-alone documents that are approved independently from each other. The Airbus A310 ALS comprises the following documents:

- ALS Part 1—Safe Life Airworthiness Limitation Items
- ALS Part 2—Damage-Tolerant Airworthiness Limitation Items
- ALS Part 3—Certification Maintenance Requirements
- ALS Part 4—Aging Systems Maintenance
- ALS Part 5—Fuel Airworthiness Limitations

Airbus ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006, refers to Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 1, dated December 19, 2005 (approved by the EASA on March 13, 2006). Section 1, ''Maintenance/Inspection Tasks,'' of Document 95A.1930/05 describes certain FAL inspections, which are periodic inspections of certain features for latent failures that could contribute to an ignition source. Section 2, ''Critical Design Configuration Control Limitations,'' of Document 95A.1930/05 identifies critical design configuration control limitations (CDCCLs). A CDCCL is a limitation requirement to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006–0202, dated July 11, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

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

This airplane model is manufactured in France 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. As described in FAA Order 8100.14A, ''Interim Procedures for Working With the European Community on Airworthiness Certification and Continued Airworthiness,'' dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

**Differences Between the Proposed AD and EASA Airworthiness Directive**

For airplanes that have exceeded 34,000 total flight hours as of effective date of the EASA airworthiness directive 2006–0202, the EASA airworthiness directive states that Task 28–18–00–03–1, ''Operational check of lo-level/underfull/calibration sensors,'' must be done within 6 years or 20,000 flight hours after the effective date. This AD, however, would require accomplishing Task 28–18–00–03–1 at the later of the following compliance times: (1) Prior to the accumulation of 40,000 total flight hours, or (2) within 72 months or 20,000 flight hours after the effective date of this AD, whichever occurs first. The EASA is considering further rulemaking to implement this change in the compliance time.

EASA airworthiness directive 2006–0202 states that the defined intervals for the FALs have to be counted from the effective date of the EASA airworthiness directive. This proposed AD would instead start counting the first interval of the FALs from the later of the following compliance times: (1) The effective date of this AD, or (2) the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness. The EASA also is considering further rulemaking to implement this change in the compliance time.

**Costs of Compliance**

This proposed AD would affect about 69 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $11,040, or $160 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA–2007–27925; Directorate Identifier 2006–NM–183–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by May 21, 2007.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Airbus Model A310 series airplanes, certificated in any category.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new inspections and critical design configuration control limitations (CDCCLs). Compliance with the operator maintenance documents is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections and CDCCLs, the operator may not be able to accomplish the inspections and CDCCLs described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections and CDCCLs that will preserve the critical ignition source prevention feature of the affected fuel system.

**Unsafe Condition**

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

**Compliance**

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

**Revise Airworthiness Limitations Section (ALS) to Incorporate Fuel Maintenance and Inspection Tasks**

(f) Within 3 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A310 ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006, as defined in Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 1, dated December 19, 2005 (approved by the European Aviation Safety Agency (EASA) on March 13, 2006), Section 1, ''Maintenance/Inspection Tasks.'' For all tasks identified in Section 1 of Document 95A.1930/05, the initial compliance times start from the later of the times specified in paragraphs (f)(1) and (f)(2) of this AD, and the repetitive inspections must be accomplished at the intervals specified in Section 1 of Document 95A.1930/05, except as provided by paragraph (g) of this AD.

(1) The effective date of this AD.

(2) The date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness.

**Initial Compliance Time for Task 28–18–00–03–1**

(g) For Task 28–18–00–03–1, ''Operational check of lo-level/underfull/calibration sensors,'' identified in Section 1, ''Maintenance/Inspection Tasks,'' of Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 1, dated December 19, 2005: The initial compliance time is the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD. Thereafter, Task 28–18–00–03–1 must be accomplished at the repetitive interval specified in Section 1 of Document 95A.1930/05.

(1) Prior to the accumulation of 40,000 total flight hours.

(2) Within 72 months or 20,000 flight hours after the effective date of this AD, whichever occurs first.

**Revise ALS to Incorporate CDCCLs**

(h) Within 12 months after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A310 ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006, as defined in Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 1, dated December 19, 2005 (approved by the EASA on March 13, 2006), Section 2, ''Critical Design Configuration Control Limitations.''

**No Alternative Inspections, Inspection Intervals, or CDCCLs**

(i) Except as provided by paragraph (j) of this AD: After accomplishing the actions specified in paragraphs (f) and (h) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used.

**Alternative Methods of Compliance (AMOCs)**

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

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures 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**

(k) EASA airworthiness directive 2006–0202, dated July 11, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on April 11, 2007.

**Stephen P. Boyd,**

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

[FR Doc. E7–7518 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2007–0197; FRL–8300–4]**

## Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Definition, Emergency Episode, and Monitoring Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing full approval of revisions to the Nevada Department of Conservation and Natural Resources portion of the Nevada State Implementation Plan (SIP). These revisions concern a definition, an emergency episode regulation, and various monitoring regulations. We are proposing to approve these provisions in order to regulate their corresponding emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by May 21, 2007.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2007–0197, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions.

2. E-mail: *steckel.andrew@epa.gov*.

3. Mail or deliver: Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947–4126, *rose.julie@epa.gov*.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the provisions in the following table:

SUBMITTED PROVISIONS

| NAC No. | NAC title | Adopted | Submitted |
|---|---|---|---|
| 445B.134 | ''Person'' defined | 09/06/06 | 12/08/06 |
| 445B.230 | Plan for reduction of emissions | 09/06/06 | 12/08/06 |
| 445B.258 | Monitoring systems: Verification of operational status | 09/06/06 | 12/08/06 |
| 445B.259 | Monitoring systems: Performance evaluations | 09/06/06 | 12/08/06 |
| 445B.260 | Monitoring systems: Components contracted for before September 11, 1974. | 09/06/06 | 12/08/06 |

In the Rules and Regulations section of this **Federal Register**, we are approving these provisions in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 4, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E7–7548 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2006–0609; FRL–8302–7]**

## Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; NSR Reform Regulations, Rule AM–06–04

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve certain revisions to Wisconsin's prevention of significant deterioration (PSD) and non-attainment new source review (NSR) construction permit programs submitted on May 25, 2006. On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations. These revisions are commonly referred to as ''NSR Reform'' regulations, which became effective on March 3, 2003. These regulatory revisions include provisions for determining baseline actual emissions, provisions for promulgating actual-to-future actual methodology, provisions for establishing Plantwide Applicability Limits (PALs), provisions for using the Clean Unit test, and, provisions for using Pollution Control Projects (PCP).

On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit Court) issued its ruling on challenges to the December 2002 NSR reform revisions. Although the Court upheld most of EPA's rules, it vacated both the Clean Unit and the PCP provisions. In addition, the Court remanded to EPA the provision that requires recordkeeping and reporting for sources that elect to use the actual-to-projected actual emission test only where there is a reasonable possibility that a project may result in a significant net emissions increase. EPA is currently working on promulgating a rule that will clarify the reasonable possibility provision. EPA's final decision with regard to the remand may require Wisconsin to revise this portion of its rules to be consistent with EPA's definition of reasonable possibility. The Wisconsin Department of Natural Resources (WDNR) is seeking approval of rule AM–06–04 to implement the NSR Reform provisions that have not been vacated by the June 24, 2005, DC Circuit Court decision. This action affects major stationary sources in Wisconsin that are subject to or potentially subject to the PSD, and non-attainment NSR construction permit programs.

**DATES:** Comments must be received on or before May 21, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0609, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *blakley.pamela@epa.gov.*
- Fax: (312)886–5824.
- Mail: Pamela Blakley, Chief, Air Permits Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- Hand Delivery: Pamela Blakley, Chief, Air Permits Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2006–0609. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Danny Marcus, Environmental Engineer, at (312) 353–8781 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Danny Marcus, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8781, *marcus.danny@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Should I Consider as I Prepare My Comments for EPA?
II. What Is Being Addressed in This Document?
III. What Are the Changes That EPA Is Proposing To Approve?
IV. What Action Is EPA Taking Today?
V. Statutory and Executive Order Reviews

## I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

## II. What Is Being Addressed in This Document?

We are proposing to approve rule AM–06–04 as a revision to the PSD and non-attainment NSR construction permit programs for the State of Wisconsin. EPA granted full approval to Wisconsin's non-attainment NSR program on January 18, 1995 (60 FR 3538) and the approval became effective on February 17, 1995. EPA granted final full approval to Wisconsin's PSD program on May 27, 1999 (64 FR 28745), which became effective on June 28, 1999.

On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations in 40 CFR Parts 51 and 52 (67 FR 80186). These revisions are commonly referred to as ''NSR Reform'' regulations and became effective on March 3, 2003. These regulatory revisions included provisions for determining baseline actual emissions, provisions for promulgating actual-to-future actual methodology, provisions for establishing Plantwide Applicability Limits (PALs), provisions for using the Clean Unit test, and, provisions for using Pollution Control Projects (PCP). As stated in the December 31, 2002, EPA rulemaking, state and local permitting agencies must adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements of that rulemaking no later than January 2, 2006 (67 FR 80240). With this submittal, Wisconsin requests approval of program revisions that satisfy this requirement.

WDNR originally prepared rule changes to adopt a version of the federal rule revisions which were subsequently authorized by the Wisconsin Natural Resources Board for public hearing in December 2003. After the DC Circuit Court ruled on the challenges of the federal NSR changes, WDNR moved forward to adopt those portions of the reform rules that the Court upheld and clarify those portions that the Court remanded back to EPA. WDNR submitted these regulatory revisions on May 22, 2006.

**III. What Are the Changes That EPA Is Proposing To Approve?**

*Chapter NR 405—PSD rules*

*Section 1*

NR 405.01(1) and (2)

WDNR has amended the language for ''applicability'' and ''purpose'' to be more consistent with the language of the federal rule in § 51.166(a)(7)(i) and (ii), respectively, of the federal rule.

*Section 2*

NR 405.02(1)(Intro) and (a) to (c)

WDNR has amended the definition of ''actual emissions'' so that it is more consistent with § 51.166(b)(21)(i) of the federal rule.

*Section 3*

NR 405.02(1)(d)

WDNR has rescinded section NR 405.02(1)(d), which is the portion of the definition of ''actual emissions'' that discussed actual emissions from electric utility steam generating units. The new provision under the definition of ''Baseline actual emissions'', under section NR 405.02(2m)(b) addresses the average rate of emissions per year from existing electric utility steam generating units. This is consistent with § 51.166(b)(47)(i) of the federal rule.

*Section 4*

NR 405.02(2m)

WDNR has established the definition of ''baseline actual emissions''. This is consistent with the definition in § 51.166(b)(47) of the federal rule.

*Section 5*

NR 405.02(8) and (11)

WDNR has amended the definition of ''Building, structure, facility, or installation'' to reflect its use of the phrase ''regulated NSR contaminant'' to replace ''air contaminant.'' WDNR has amended the definition of ''construction'' so that it is more consistent with the definition in § 51.166(b)(8) of the federal rule.

*Section 6*

NR 405.02(11c), (11e) and (11j)

WDNR has established the definitions of; ''Continuous emissions monitoring system'' (CEMS), ''Continuous emissions rate monitoring system'' (CERMS), and ''Continuous parameter monitoring system'' (CPMS). These definitions are consistent with § 51.166(b)(43), (46) and (45), respectively, of the federal rule.

*Section 7*

NR 405.02(12)

WDNR has established the definition of ''emissions unit''. This is consistent with the definition in § 51.166(b)(7) of the federal rule.

*Section 8*

NR 405.02(20m)

WDNR has established the definition of ''Lowest Achievable Emission Rate'' or ''LAER''. This is consistent with the definition in § 51.166(b)(52) of the federal rule.

*Section 9*

NR 405.02(21) and (24)

WDNR has modified the definitions of ''Major modification'' and ''Net emissions increase'' to be more consistent with § 51.166(b)(2) and (b)(3), respectively, of the federal rule. WDNR has also added the language for ''routine maintenance, repair, and replacement'' under section NR 405.02(21), which makes the rule more consistent with § 51.166(b)(2)(iii) of the federal rule.

*Section 10*

NR 405.02(24j)

WDNR has established the definition of ''Plant-wide applicability limitation'' or ''PAL''. This is consistent with the definition in § 51.166(w)(2)(v) of the federal rule.

*Section 11*

NR 405.02(24m)

WDNR has rescinded section NR 405.02(24m), the definition of pollution control projects (PCPs). This provision was vacated by the D.C. Circuit Court. Therefore, WDNR is making its rules consistent with the Court's decision.

*Section 12*

NR 405.02(25b), (25d), (25e), (25f)(a) and (25i)

WDNR has established the definitions of, ''Predictive emissions monitoring system (PEMS)'', ''PSD program'', ''Project'', ''Projected actual emissions'', and ''Regulated NSR air contaminant''. These definitions are consistent with § 51.166(b)(44), (42), (51), (40), (49), respectively, of the federal rule.

*Section 13*

NR 405.02(27)(a)8., 17., and 18.

WDNR has rescinded sections NR 405.02(27)(a)8, 17, and 18. The pollutants Mercury, Chlorofluorocarbons and Halons are not regulated by the federal PSD rules. This is consistent with § 51.166(b)(23)(i) of the federal rule.

*Section 14*

NR 405.02(27m)

WDNR has established the definition of ''significant emissions increase''. This is consistent with § 51.166(b)(39) of the federal rule.

*Section 15*

NR 405.025

WDNR has established a provision that provides a detailed explanation of calculating increases in actual emissions from (1) existing emission units, (2) new emission units, and (3) new and existing emission units. This provision addresses actual emissions and baseline actual emissions. This is consistent with the ''actual-to-projected actual applicability test'' provisions that can be found at § 51.166(a)(7)(iv)(c), (d), and (f) of the federal rule.

*Section 16*

NR 405.16(3) and (4)

WDNR has added language regarding sources that choose to use the actual-to-projected actual applicability test and do not trigger PSD. WDNR specifies recordkeeping and reporting requirements for all sources that elect to use the applicability test. The federal rules require a source to follow the recordkeeping and reporting requirements in this section if there is a ''reasonable possibility'' that a source may exceed the projected actual emissions. The ''reasonable possibility'' clause of this provision of the federal rule was remanded to EPA in the June 24, 2005, DC Circuit Court ruling. *State of New York et al.* v. *EPA,* 413 F.3d 3 (DC Cir. 2005). At this time, EPA has not responded to the remand order and this provision remains a part of the federal rule. *See* 40 CFR 51.166(r)(6). As Wisconsin's requirement of recordkeeping and reporting for all facilities using the actual-to-projected actual applicability test is more stringent than the federal rule, we propose to approve this approach.

*Section 17*

NR 405.18 PALs in Attainment Areas

NR 405.18(1)

This portion of 405.18 outlines the ''APPLICABILITY'' provision of PALs. This provision is consistent with § 51.166(w)(1) of the federal rule.

NR 405.18(2)

This section of 405.18 outlines the ''DEFINITIONS'' provision of PALs. The included definitions in this section are; ''Allowable emissions'', ''Major emissions unit'', ''PAL effective date'',

''PAL effective period'', ''PAL major modification'', ''PAL permit'', ''PAL regulated air contaminant'', ''Significant emissions unit'', and ''Small emissions unit''. This section is consistent with § 51.166(w)(2) of the federal rule.

NR 405.18(3)

This section of 405.18 outlines the ''PERMIT APPLICATION REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.166(w)(3) of the federal rule.

NR 405.18(4)

This section of 405.18 outlines the ''GENERAL REQUIREMENTS FOR ESTABLISHING PALS'' provision of PALs. This provision is consistent with § 51.166(w)(4) of the federal rule.

NR 405.18(5)

This section of 405.18 outlines the ''PUBLIC PARTICIPATION REQUIREMENTS FOR PALS'' provision of PALs. This provision is consistent with § 51.166(w)(5) of the federal rule.

NR 405.18(6)

This section of 405.18 outlines the ''SETTING THE 10-YEAR PAL LEVEL'' provision of PALs. This provision is consistent with § 51.166(w)(6) of the federal rule.

NR 405.18(7)

This section of 405.18 outlines the ''CONTENTS OF THE PAL PERMIT'' provision of PALs. This provision is consistent with § 51.166(w)(7) of the federal rule.

NR 405.18(8)

This section of 405.18 outlines the ''PAL EFFECTIVE PERIOD AND REOPENING OF THE PAL PERMIT'' provision of PALs. This provision is consistent with § 51.166(w)(8) of the federal rule.

NR 405.18(9)

This section of 405.18 outlines the ''EXPIRATION OF A PAL'' provision of PALs. This provision is consistent with § 51.166(w)(9) of the federal rule.

NR 405.18(10)

This section of 405.18 outlines the ''RENEWAL OF A PAL'' provision of PALs. This provision is consistent with § 51.166(w)(10) of the federal rule.

NR 405.18(11)

This section of 405.18 outlines the ''INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD'' provision of PALs. This provision is consistent with § 51.166(w)(11) of the federal rule.

NR 405.18(12)

This section of 405.18 outlines the ''MONITORING REQUIREMENTS FOR PALS'' provision of PALs. This provision is consistent with § 51.166(w)(12) of the federal rule.

NR 405.18(13)

This section of 405.18 outlines the ''RECORDKEEPING REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.166(w)(13) of the federal rule.

NR 405.18(14)

This section of 405.18 outlines the ''REPORTING AND NOTIFICATION REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.166(w)(14) of the federal rule.

NR 405.18(15)

This section of 405.18 outlines the ''TRANSITION REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.166(w)(15) of the federal rule.

*Chapter NR 408—Nonattainment Major NSR Program*

*Section 18*

NR 408.02(1)

WDNR has established the definition of ''Actual emissions''. This is consistent with the definition in § 51.165(a)(1)(xii) of the federal rule.

*Section 19*

NR 408.02(2m)

WDNR has established the definition of ''Baseline actual emissions''. This is consistent with the definition in § 51.165(a)(1)(xxxv) of the federal rule.

*Section 20*

NR 408.02(4), (5), and (11)

WDNR has established the definitions of ''Best available control technology'' or ''BACT'', ''Building, structure, facility or installation'', and ''Construction''. These definitions are consistent with the definitions in §§ 51.165(a)(1)(xl), 51.165(a)(1)(ii), and 51.165(a)(1)(xviii), respectively, of the federal rule.

*Section 21*

NR 408.02(11e), (11m) and (11s)

WDNR has established the definitions of; ''Continuous emissions monitoring system'' or ''CEMS'', ''Continuous emissions rate monitoring system'' or ''CERMS'', and ''Continuous parameter monitoring system'' or ''CPMS''. These definitions are consistent with § 51.165(a)(1)(xxxi), (xxxiv) and (xxxiii), respectively, of the federal rule.

*Section 22*

NR 408.02(13)

WDNR has established the definition of ''emissions unit''. This is consistent with the definition in § 51.165(a)(1)(vii) of the federal rule.

*Section 23*

NR 408.02(13m)

WDNR has established the definition of ''federal land manager''. This is consistent with the definition in § 51.165(a)(1)(xlii) of the federal rule.

*Section 24*

NR 408.02(20)

WDNR has established the definition of ''major modification''. This is consistent with the definition in § 51.165(a)(1)(v) of the federal rule. WDNR has also added the language for ''routine maintenance, repair, and replacement'' under section NR 408.02(20), which makes the rule more consistent with § 51.165(a)(1)(v)(C) of the federal rule.

*Section 25*

NR 408.02(21)(a)1.(Intro)

WDNR has modified this paragraph so that ''air pollutants'' are now ''air contaminants''. WDNR's rules are replacing ''pollutants'' with ''contaminants'', and the criteria pollutants are referred to as; ''NSR air contaminants''.

*Section 26*

NR 408.02(23)

WDNR has modified the definition of ''net emissions increase'' to be more consistent with § 51.165(a)(1)(vi) of the federal rule.

*Section 27*

NR 408.02(24m) and (25s)

WDNR has established the definitions for ''nonattainment major new source review'' and ''plant-wide applicability limitation''. These definitions are consistent with §§ 51.165(a)(1)(xxx) and § 51.165(f)(2)(v), respectively, of the federal rule.

*Section 28*

NR 408.02(27)

WDNR has rescinded the existing PCP provision, which is consistent with the federal rules.

*Section 29*

NR 408.02(28e), (28j), (28m), (28s)(a), (29m), and (32m)

WDNR has established the definition of; ''predictive emissions monitoring

system'' or ''PEMS'', ''prevention of significant deterioration permit'' or ''PSD Permit'', ''project'', ''projected actual emissions'', ''regulated NSR air contaminant'', and ''significant emissions increase''. These definitions are consistent with §§ 51.165(a)(1)(xxxii), 51.165(a)(1)(xli), 51.165(a)(1)(xxxix), 51.165(a)(1)(xxviii), 51.165(a)(1)(xxxvii), and 51.165(a)(1)(xxvii), respectively, of the federal rule. However, as a small deviation to note, WDNR has chosen to refer to an NSR pollutant as an NSR air contaminant.

*Section 30*

NR 408.025

WDNR has established a provision that provides a detailed explanation of calculating increases in actual emissions from (1) existing emission units, (2) new emission units, and (3) new and existing emission units. This provision addresses actual emissions and baseline actual emissions. This is consistent with the ''actual-to-projected actual applicability test'' provisions that can be found at § 51.165(a)(2)(ii)(C), (D), and (F) of the federal rule.

*Section 31*

NR 408.06(10)

WDNR has established this provision consistent with § 51.165(a)(3)(ii)(J) of the federal rule, regarding the total increase in emissions resulting from a major modification.

*Section 32*

NR 408.10(5) and (6)

WDNR has added language regarding sources that choose to use the actual-to-projected actual applicability test and do not exceed the significance threshold for any pollutant regulated by chapter NR 408. WDNR specifies recordkeeping and reporting requirements for all sources that elect to use the applicability test. The federal rules require a source to follow the recordkeeping and reporting requirements in this section if there is a ''reasonable possibility'' that a source may exceed the projected actual emissions. The ''reasonable possibility'' clause of this provision of the federal rule has been remanded to EPA in the June 24, 2005, DC Circuit Court ruling. *State of New York et al.* v. *EPA*, 413 F.3d 3 (DC Cir. 2005). At this time, EPA has not responded to the remand order and this provision remains a part of the federal rule. See 40 CFR 51.165(a)(6). As Wisconsin's requirement of recordkeeping and reporting for all facilities using the actual-to-projected actual applicability test is more stringent than the federal rule in that it applies to all sources and not just where there is a ''reasonable possibility'' that the source may exceed the projected actual emissions, we propose to approve this approach.

*Section 33*

NR 408.11 PALs in Non-Attainment Areas

NR 408.11(1)

This portion of 408.11 outlines the ''APPLICABILITY'' provision of PALs. This provision is consistent with § 51.165(f)(1) of the federal rule.

NR 408.11(2)

This section of 405.18 outlines the ''DEFINITIONS'' provision of PALs. The included definitions in this section are; ''allowable emissions'', ''major emissions unit'', ''PAL effective date'', ''PAL effective period'', ''PAL major modification'', ''PAL permit'', ''PAL regulated air contaminant'', ''significant emissions unit'', and ''small emissions unit''. This section is consistent with § 51.165(f)(2) of the federal rule.

NR 408.11(3)

This section of 408.11 outlines the ''PERMIT APPLICATION REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.165(f)(3) of the federal rule.

NR 408.11(4)

This section of 408.11 outlines the ''GENERAL REQUIREMENTS FOR ESTABLISHING PALS'' provision of PALs. This provision is consistent with § 51.165(f)(4) of the federal rule.

NR 408.11(5)

This section of 408.11 outlines the ''PUBLIC PARTICIPATION REQUIREMENTS FOR PALS'' provision of PALs. This provision is consistent with § 51.165(f)(5) of the federal rule.

NR 408.11(6)

This section of 408.11 outlines the ''SETTING THE 10-YEAR PAL LEVEL'' provision of PALs. This provision is consistent with § 51.165(f)(6) of the federal rule.

NR 408.11(7)

This section of 408.11 outlines the ''CONTENTS OF THE PAL PERMIT'' provision of PALs. This provision is consistent with § 51.165(f)(7) of the federal rule.

NR 408.11(8)

This section of 408.11 outlines the ''PAL EFFECTIVE PERIOD AND REOPENING OF THE PAL PERMIT'' provision of PALs. This provision is consistent with § 51.165(f)(8) of the federal rule.

NR 408.11(9)

This section of 408.11 outlines the ''EXPIRATION OF A PAL'' provision of PALs. This provision is consistent with § 51.165(f)(9) of the federal rule.

NR 408.11(10)

This section of 408.11 outlines the ''RENEWAL OF A PAL'' provision of PALs. This provision is consistent with § 51.166(f)(10) of the federal rule.

NR 408.11(11)

This section of 408.11 outlines the ''INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD'' provision of PALs. This provision is consistent with § 51.165(f)(11) of the federal rule.

NR 408.11(12)

This section of 408.11 outlines the ''MONITORING REQUIREMENTS FOR PALS'' provision of PALs. This provision is consistent with § 51.165(f)(12) of the federal rule.

NR 408.11(13)

This section of 408.11 outlines the ''RECORDKEEPING REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.165(f)(13) of the federal rule.

NR 408.11(14)

This section of 408.11 outlines the ''REPORTING AND NOTIFICATION REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.165(f)(14) of the federal rule.

NR 408.11(15)

This section of 408.11 outlines the ''TRANSITION REQUIREMENTS'' provision of PALs. This provision is consistent with § 51.165(f)(15) of the federal rule.

*Section 34*

NR 484.04(21)

This section is amended by WDNR so that the performance specifications in 40 CFR part 60, Appendix B, are incorporated by reference. Appendix B contains CEM performance specifications that are required by chapters NR 405 and NR 408. We propose to approve this provision into the SIP.

*Section 35*

NR 484.04(27m)

This section was created by WDNR to incorporate by reference, 40 CFR part 82, Subpart A, for the ozone depleting substance list that existed in the

Pollution Control Project provision that was in the original version of the rules. The Pollution Control Project provision has been vacated. However, this section will remain in the rules in case it is needed for reference in the future. We propose to approve this provision into the SIP.

*Section 36*

This section states the date rule AM–06–04 becomes effective by WDNR. The date will be the first day of the month following publication in the Wisconsin administrative register. Also, WDNR will not publish the rule until EPA approves it.

*Section 37*

This section contains the date the rule is approved to be adopted by the State of Wisconsin Natural Resources Board.

**IV. What Action Is EPA Taking Today?**

EPA is proposing to approve into the Wisconsin State Implementation Plan (SIP) the revisions to WDNR's PSD and Non-attainment NSR construction permits program submitted by WDNR on May 25, 2006. These revisions meet the minimum program requirements of the December 31, 2002, EPA NSR Reform rulemaking.

**VI. Statutory and Executive Order Reviews**

*Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

*Paperwork Reduction Act*

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*Unfunded Mandates Reform Act*

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

*Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

*Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

*Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

*Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a ''significant regulatory action'' under Executive Order 12866 or is likely to have a significant adverse effect on the supply, distribution, or the use of energy, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

*National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

**List of Subjects in 40 CFR Part 52**

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

Dated: April 11, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. E7–7541 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2006–0609; FRL–8302–8]**

## Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; New Source Review Reform ''Linkage'' Rule, Rule AM–32–04b

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve as a revision to the Wisconsin State Implementation Plan (SIP) changes to the minor New Source Review (NSR) construction permit program and permits fees schedule, through rule AM–32–04b. The purpose of rule AM–32–04b is to update Wisconsin's minor NSR construction permit program to include changes to implement the new elements of the federal ''NSR Reform'' rules for sources that are exempt from major NSR permitting requirements. Rule AM–32–04b has been created to accompany the ''NSR Reform'' rules and is necessary to effectively implement

the ''NSR Reform'' rules. Elsewhere in today's **Federal Register**, EPA is proposing to approve Wisconsin's ''NSR Reform'' rules. WDNR has also established a new fee schedule that will apply to facilities that meet the criteria in rule AM–32–04b.

**DATES:** Comments must be received on or before May 21, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0609, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: blakley.pamela@epa.gov.*
- *Fax:* (312)886–5824.
- *Mail:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2006–0609. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Danny Marcus, Environmental Engineer, at (312) 353–8781 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Danny Marcus, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8781, *marcus.danny@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Should I Consider as I Prepare My Comments for EPA?
II. What Is Being Addressed In This Document?
III. What Are The Changes That EPA Is Proposing To Approve?
IV. What Action Is EPA Taking Today?
V. Statutory and Executive Order Reviews.

## I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

## II. What Is Being Addressed in This Document?

We are proposing to approve changes to the minor NSR construction permit program and permits fees schedule of the State of Wisconsin, enacted through rule AM–32–04b. EPA granted full approval to WDNR's non-attainment NSR (NANSR) program on January 18, 1995 (60 FR 3538) and the approval became effective on February 17, 1995. The January 18, 1995, approval also included WDNR's minor NSR program, which was incorporated by reference into Wisconsin's SIP.

The rule revision being proposed for approval in this action is referred to as the ''linkage'' rule and has been created to update Wisconsin's minor NSR construction permit program to include changes to implement the new elements of the federal ''NSR Reform'' rules for sources that are exempt from major NSR permitting requirements. EPA published the ''NSR Reform'' regulations, which include revisions to the federal Prevention of Significant Deterioration (PSD) and NANSR regulations, in the **Federal Register** on December 31, 2002, which became effective March 3, 2003. Elsewhere in today's **Federal Register**, EPA is proposing to approve Wisconsin's ''NSR Reform'' rules.

The rule revision will affect those facilities seeking an exemption from the major NSR program as a result of the actual-to-projected-actual applicability test, and facilities complying with plant-wide applicability limitations (PALs). This rule revision also establishes a new fee schedule for facilities utilizing PALs and for facilities seeking an exemption determination.

This rule revision contains a provision that will be applicable to the major source facilities that are exempt from major NSR when applying the actual-to-projected-actual applicability test in circumstances where the

calculated difference between projected actual emissions and baseline actual emissions does not exceed significant thresholds. Facilities that meet this criterion will also have to meet the criteria in the linkage package in order to be eligible for the exemption. The criteria consists of: (1) The modification will not cause or exacerbate an exceedance of an ambient air quality increment or standard; (2) the modification will not trigger a New Source Performance Standard (NSPS) or a National Emissions for Hazardous Air Pollutants (NESHAP) standard; and, (3) the modification will not require enforceable conditions to limit potential to emit.

PALs were created so that a facility could make rapid, iterative changes optimizing process performance, without the administrative time delays and uncertainty associated with permitting. The PAL is believed to provide for environmental improvement since its cap-based framework encourages emission reductions and pollution prevention. In rule AM–32–04b, WDNR provides additional clarification for facilities that choose to operate under a PAL. EPA has not provided provisions for sources operating under a PAL in certain circumstances. Any facility which establishes a PAL, or will distribute allowable emissions following expiration of a PAL, will comply with the provision section NR 406.035 and will need a minor NSR construction permit.

This rule revision contains a provision that will apply to sources modifying their facility under a PAL. In order to be eligible for this exemption, the source also has to meet the following criteria: (1) The modification will not cause or exacerbate an exceedance of an ambient air quality increment or standard; (2) the modification will not trigger a NSPS or NESHAP standard; (3) the modification does not consist of the construction of a new emissions unit which is a significant emissions unit under section NR 405.18(2)(h), of the Wisconsin PSD program, or section NR 408.11(2)(h), of the Wisconsin NANSR program, and which has been operating for less than two years, or does not consist of the construction of a ''major emissions unit''; (4) the emissions from the source will be able to comply with the PAL; and, (5) any increase in emissions, due to the modification, in pollutants not regulated by the PAL will not exceed maximum theoretical emissions.

WDNR has established into its rules a new fee schedule that will apply to facilities using PALs and to facilities applying for exemptions under the new provisions in this rule. A source will be responsible for paying a fee when establishing a PAL limit, increasing an existing PAL limit, and when required to distribute limits upon expiration of a PAL. Also, there are fees applicable to sources when seeking an exemption determination under the new provisions of this rule.

**III. What Are the Changes That EPA Is Proposing To Approve?**

*Rule AM–32–04b*

Section 1

NR 406.035—Establishment or Distribution of Plant-Wide Applicability Limitations

This provision was established by WDNR to require a facility to acquire a minor NSR construction permit when: (1) Establishing a PAL; and, (2) distributing allowable emissions following expiration of a PAL. In the **Federal Register** document that promulgated the ''NSR Reform'' rules, 67 FR 80208, the section that contained the discussion on PALs did not specifically address how PALs should be established. However, the document states that a permitting authority must use a federally enforceable permit which may include using a minor NSR construction permit.

Section 2

NR 406.04(1f)—Modifications to Sources Under Plant-Wide Applicability Limitations

WDNR has established this exemption provision for sources operating under a PAL which are seeking to modify their facility. This is consistent with the NSR Reform rules. They will not need a construction permit as long as the criteria in this provision is met: (1) The modification will not cause or exacerbate an exceedance of an ambient air quality increment or standard; (2) the modification will not trigger a NSPS or NESHAP standard; (3) the modification does not consist of the construction of a new emissions unit which is a significant emissions unit under section NR 405.18(2)(h), of the Wisconsin PSD program, or section NR 408.11(2)(h), of the Wisconsin NANSR program, and which has been operating for less than two years, or the construction of a ''major emissions unit''; (4) the emissions from the source will be able to comply with the PAL; and, (5) any increase in emissions, due to the modification, of pollutants not regulated by the PAL, will not exceed maximum theoretical emissions.

NR 406.04(1k)—Projects Evaluated for Significant Net Emissions Increase

WDNR has established this exemption provision for sources that are modifying existing emission units at a major stationary source whose calculated difference between the projected actual emissions and baseline actual emissions does not exceed significant thresholds. The reform rules exempt any source meeting this criterion from acquiring a major NSR construction permit. This provision is consistent with the reform rules; it exempts a source from acquiring a permit to construct when the project meets the criteria stated in the provision. The criteria consist of: (1) The modification will not cause or exacerbate an exceedance of an ambient air quality increment or standard; (2) the modification will not trigger a NSPS or a NESHAP standard; and, (3) the modification will not require enforceable conditions to limit potential to emit. A source may still be required to apply for an operating permit before construction of the project begins.

Section 3

NR 406.07(3)

This provision is being established so that any source that undergoes a modification that is exempt from the requirement to obtain a construction permit under sections NR 406.04 (1f) and (1k) shall be treated as a new or modified source for the purposes of the emission limitations under chapters NR 400 to 499, unless the modification is excluded from being considered a modification under section NR 406.04(4). The purpose of section NR 406.07(3) is to allow sources to take advantage of the federal reform rules without being exempted from meeting updated requirements of other rules in the Wisconsin SIP. This provision will allow any emission unit being modified under the applicability test or PAL provision to be exempt from permitting without being exempt from other Wisconsin SIP provisions. As a result, facilities will be able to take advantage of the flexibility provided by the federal NSR Reform rule, but will not be exempted from meeting updated requirements in other rules.

Section 4

NR 406.11(1m)

WDNR has established this provision so that it may be able to open a construction permit for the purposes of decreasing a PAL limit. This is consistent with the federal NSR Reform rules. See 40 CFR 51.166(w)(8)(ii)(a) and 40 CFR 51.165(f)(8)(ii)(A).

Section 5

NR 410.03(intro.)—Application Fee

WDNR has modified this existing paragraph. The words, ''under s. NR 406.04(1)(i) * * *'', have been deleted from the sentence, ''Any person required under s. NR 406.04(1)(i) to obtain a determination of exemption from the department shall pay the basic fee under sub. (1)(b).'' The fee will now apply to any facility requesting an exemption, and is not exclusive to section NR 406.04(1)(i) any longer.

Section 6

NR 410.03(1)(a)8. to 10.

WDNR has established the fees associated with PALs in this provision. A facility will be responsible for a fee of $10,150 per pollutant when establishing a PAL limit. A fee of $4,850 per pollutant will be applicable if a facility decides to increase a PAL limit. When a facility comes in for distribution of allowable limits following expiration of a PAL, a fee of $4,850 per pollutant will be applicable.

Section 7

NR 410.03(1)(b)1

This provision was originally section NR 410.03(1)(b). The language was modified for consistency.

Section 8

NR 410.03(1)(b)(intro.) and 2. to 4.

WDNR has reestablished section NR 410.03. This provision explains the fees associated with acquiring an exemption under sections NR 406.04 (1f) and (1k). A facility will be subject to a fee of $1,100 per pollutant when seeking an exemption under section NR 406.04(1f), and a fee of $4,400 per pollutant when seeking an exemption under section NR 406.04(1k). There is also a fee of $700 per pollutant for any facility which needs a detailed air quality modeling analysis for any determination of exemption under sections NR 406.04 (1f) and (1k).

## IV. What Action Is EPA Taking Today?

EPA is proposing to approve into the Wisconsin SIP, rule AM–32–04b, changes to the minor New Source Review (NSR) construction permit program and permits fees schedule. Rule AM–32–04b will update Wisconsin's minor NSR construction permit program to include changes to implement the new elements of the federal ''NSR Reform'' rules for sources that are exempt from major NSR permitting requirements. This new rule will be necessary for AM–06–04, the adopted version of the NSR Reform rule, to be implemented appropriately.

## V. Statutory and Executive Order Reviews

*Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

*Paperwork Reduction Act*

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*Unfunded Mandates Reform Act*

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

*Executive Order 13132 Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

*Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

*Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

*Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a ''significant regulatory action'' under Executive Order 12866 or is likely to have a significant adverse effect on the supply, distribution, or the use of energy, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

*National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

**List of Subjects in 40 CFR Part 52**

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

Dated: April 11, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. E7–7545 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

**[EPA–R09–OAR–2007–0090; FRL–8303–4]**

### Clean Air Act Proposed Full Approval of Revisions to the State of Hawaii Operating Permit Program

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the State of Hawaii's (''Hawaii'' or ''State'') operating permit program that amend Hawaii's regulations for insignificant emissions units (IEUs). In an April 1, 2002 Notice of Deficiency published in the **Federal Register**, EPA notified Hawaii of EPA's finding that Hawaii's provisions for IEUs did not meet minimum Federal requirements. Hawaii has revised its program to correct the deficiency identified in the Notice of Deficiency and this action proposes full approval of those revisions.

**DATES:** Written comments must be received by May 21, 2007.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2007–0090, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the online instructions.

2. *E-mail: Rios.Gerardo@epa.gov*.

3. *Mail or deliver to:* Gerardo Rios, Permits Office Chief, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105.

*Instructions:* All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Robert Baker, EPA Region IX, at (415) 972–3979, (*Baker.Robert@epa.gov*).

**SUPPLEMENTARY INFORMATION:** This proposal addresses revisions to the following local rule, 11–60.1–82(e), in State of Hawaii operating permits program. In the Rules and Regulations section of this **Federal Register**, we are approving the revision in direct final action without prior proposal because we believe the revisions made to the program to resolve the Notice of Deficiency are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule, we may adopt as final those provisions of the revision that are not the subject of the adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 4, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E7–7549 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### 44 CFR Part 67

**[Docket No. FEMA–B–7714]**

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet

the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This proposed rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This proposed rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

## PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) +Elevation in feet (NAVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| **Kaycee, Wyoming** | | | | | |
| WY | Town of Kaycee | North Fork Powder River | Approximately 5,150 feet downstream from Highway 196—at the downstream corporate limits of Kaycee, Wyoming. | None | +4639 |
| | | | Approximately 180 feet downstream from I–25 North—at the upstream corporate limits of Kaycee, Wyoming. | None | +4656 |

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

**ADDRESSES**

**Town of Kaycee**

Maps are available for inspection at PO Box 265, Kaycee, Town of, WY 82639.
Send comments to Allen Streeter, Mayor, 414 Park Street, Kaycee, WY 82639.

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **DeKalb County, Alabama, and Incorporated Areas** | | | | |
| Big Wills Creek | Approximately 7,000 feet downstream of confluence with Little Wills Creek. | None | +672 | Town of Collinsville, De Kalb County (Unincorporated Areas). |
| | Approximately 10,000 feet upstream of confluence with Little Wills Creek. | None | +680 | |
| | Confluence with Davis Gap Creek | None | +783 | |
| | Approximately 2,000 feet upstream of confluence with Davis Gap Creek. | None | +786 | |
| | Approximately 2,500 feet upstream of confluence with Hammond Branch. | None | +963 | |
| | Approximately 5,000 feet upstream of confluence with Hammond Branch. | None | +980 | |
| Davis Gap Creek | Confluence with Big Wills Creek | None | +783 | De Kalb County (Unincorporated Areas). |
| | Approximately 1,500 feet upstream of confluence with Big Wills Creek. | None | +786 | |
| Ivy Creek | Confluence with Town Creek | None | +1152 | De Kalb County (Unincorporated Areas). |
| | Approximately 1,000 feet upstream of confluence with Town Creek. | None | +1154 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Little Wills Creek | Confluence with Big Wills Creek | None | +674 | Town of Collinsville, De Kalb County (Unincorporated Areas). |
| | Church Avenue Crossing | None | +710 | |
| | Approximately 1,500 feet upstream of SR 68 Crossing | None | +734 | |
| | Approximately 2,500 feet upstream of SR 68 Crossing | None | +738 | |
| Little Wills Creek Tributary | Approximately 5,000 feet upstream of confluence with Little Wills Creek. | None | +729 | Town of Collinsville. |
| | Approximately 5,700 feet upstream of confluence with Little Wills Creek. | None | +731 | |
| Little Wills Valley Branch | Approximately 2,500 feet downstream of 41st Street South Crossing. | None | +839 | De Kalb County (Unincorporated Areas). |
| | Approximately 2,000 feet downstream of 41st Street South Crossing. | None | +843 | |
| Phillips Branch | Approximately 200 feet upstream of South Sauty Creek. | None | +1166 | City of Rainsville, De Kalb County (Unincorporated Areas). |
| | Approximately 1,000 feet upstream of South Sauty Creek. | None | +1171 | |
| Piney Creek | Approximately 7,000 feet downstream of Horton Road Crossing. | None | +1199 | City of Rainsville, Town of Shiloh, De Kalb County (Unincorporated Areas). |
| | Confluence with Piney Creek Tributary | None | +1215 | |
| Town Creek | Approximately 1,000 feet upstream of confluence with Bynum Mill Branch. | None | +1124 | City of Rainsville, De Kalb County (Unincorporated Areas). |
| | Approximately 2,000 feet upstream of SR 35 Crossing | None | +1175 | |

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

**ADDRESSES**

**City of Rainsville**

Maps are available for inspection at 70 McCurdy Avenue, Rainsville, AL 35988.
Send comments to The Honorable Donnie Chandler, Mayor, City of Rainsville, P.O. Box 309, Rainsville, AL 35986.

**Town of Collinsville**

Maps are available for inspection at 39 Post Office Street, Collinsville, AL 35961.
Send comments to The Honorable Jimmy Carter, Mayor, Town of Collinsville, P.O. Box N, Collinsville, AL 35961.

**Town of Hammondville**

Maps are available for inspection at 37699 U.S. Highway 11, Hammondville, AL 35989.
Send comments to The Honorable Larry Watson, Mayor, Town of Hammondville, P.O. Box 329, Valley Head, AL 35989.

**Town of Shiloh**

Maps are available for inspection at 111 Grand Avenue, Suite 200, Fort Payne, AL 35967.
Send comments to The Honorable Charles D. Liles, Mayor, Town of Shiloh, P.O. Box 924, Rainsville, AL 35986.

**De Kalb County (Unincorporated Areas)**

Maps are available for inspection at 111 Grand Avenue, Suite 200, Fort Payne, AL 35967.
Send comments to The Honorable Sid Holcomb, Chairman, DeKalb County, 111 Grand Avenue, Suite 200, Fort Payne, AL 35967.

**Etowah County, Alabama, and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Coosa River | St. Clair County Line | None | +511 | City of Southside. |
| | Approximately 25,000 feet upstream of SR 77 Crossing. | None | +516 | |
| | Approximately 1,000 feet downstream of confluence with Big Cove Creek. | None | +524 | |
| | Approximately 35,000 feet upstream of confluence with Big Cove Creek. | None | +529 | |
| Greenway Creek | Hooke Street Crossing | None | +523 | City of Gadsden. |
| | Springfield Avenue Crossing | None | +530 | |
| Little Cove Creek | U.S. 278 Crossing | None | +524 | Town of Hokes Bluff. |
| | Approximately 6,000 feet upstream of U.S. 278 Crossing. | None | +524 | |
| Locust Fork of Black Warrior River. | Approximately 7,500 feet downstream of Payne Branch. | None | +821 | Town of Walnut Grove, Etowah County (Unincorporated Areas). |
| | Approximately 1,000 feet upstream of Payne Branch | None | +827 | |
| Payne Branch | Confluence with Locust Fork of Black Warrior River | None | +824 | Town of Walnut Grove. |
| | Ashville Road Crossing | None | +836 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Town Creek | Approximately 3,000 feet upstream of Tuscaloosa Avenue Crossing. | None | +544 | Etowah County (Unincorporated Areas), City of Gadsden. |
| | Approximately 4,400 feet upstream of Tuscaloosa Avenue Crossing. | None | +554 | |

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

**ADDRESSES**

**City of Gadsden**

Maps are available for inspection at 90 Broad Street, Gadsden, AL 35901.
Send comments to The Honorable Steve Means, Mayor, City of Gadsden, 90 Broad Street, Gadsden, AL 35901.

**City of Southside**

Maps are available for inspection at 2255 Highway 77, Southside, AL 35907.
Send comments to The Honorable Wally Burns, Mayor, City of Southside, 2255 Highway 77, Southside, AL 35907.

**Town of Hokes Bluff**

Maps are available for inspection at 3301 Alford Bend Road, Hokes Bluff, AL 35903.
Send comments to The Honorable Tim Langdale, Mayor, Town of Hokes Bluff, 3301 Alford Bend Road, Hokes Bluff, AL 35903.

**Town of Walnut Grove**

Maps are available for inspection at 4012 Gadsden-Blountsville Road, Walnut Grove, AL 35990.
Send comments to The Honorable Autry Works, Mayor, Town of Walnut Grove, 4012 Gadsden-Blountsville Road, Walnut Grove, AL 35990.

**Unincorporated Areas of Etowah County**

Maps are available for inspection at 800 Forrest Avenue, Gadsden, AL 35901.
Send comments to The Honorable Tim N. Choate, Chairman, Etowah County Commission, 800 Forrest Avenue, Gadsden, AL 35901.

**Geneva County, Alabama, and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Carter Mill Creek | Approximately 3,300 feet upstream of Bellwood Highway Crossing. | None | +111 | Geneva County (Unincorporated Areas) |
| | Approximately 6,200 feet upstream of Bellwood Highway Crossing. | None | +119 | |
| Choctawhatchee River | Approximately 1,500 feet downstream of confluence with Pea River. | None | +99 | City of Geneva, Town of Eunola, Geneva County (Unincorporated Areas). |
| | Approximately 200 feet upstream of confluence with Schuttle Mill Creek. | None | +105 | |
| Double Bridges Creek | City of Geneva Corporate Limits | None | +102 | Geneva County (Unincorporated Areas) |
| | Approximately 1,200 feet upstream of City of Geneva Corporate Limits. | None | +102 | |
| Pea River | Approximately 7,000 feet upstream of SR 27 Crossing | None | +102 | Geneva County (Unincorporated Areas). |
| | Approximately 10,000 feet upstream of SR 27 Crossing. | None | +102 | |
| Threemile Branch | Approximately 3,800 feet upstream of confluence with Pea River. | None | +101 | Geneva County (Unincorporated Areas). |
| | Approximately 6,600 feet upstream of confluence with Pea River. | None | +113 | |

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

**ADDRESSES**

**City of Geneva**

Maps are available for inspection at 517 S. Commerce Street, Geneva, AL 36340.
Send comments to The Honorable Karen Simmons, Mayor, City of Geneva, 517 S. Commerce Street, Geneva, AL 36340.

**Town of Eunola**

Maps are available for inspection at 200 S. Commerce Street, Geneva, AL 36340.
Send comments to The Honorable Ruben Hughes, Mayor, Town of Eunola, Route One, Box 310, Geneva, AL 36340.

**Geneva County (Unincorporated Areas)**

Maps are available for inspection at 200 S. Commerce Street, Geneva, AL 36340.
Send comments to The Honorable Judge Harry O. Adkison, Chairman, Geneva County, 200 S. Commerce Street, Geneva, AL 36340.

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **Breathitt County, Kentucky, and Incorporated Areas** | | | | |
| North Fork Kentucky River ... | Approximately 7.43 miles downstream of the confluence with Frozen Creek near Cy Bend. | None | +717 | Breathitt County (Unincorporated Areas), City of Jackson. |
| | Approximately 2.83 miles upstream of the Robinson Road Bridge at Quick Sand. | None | +754 | |
| PanBowl Lake ..... | Kentucky 15 Crossing ..... | None | +732 | Breathitt County (Unincorporated Areas), City of Jackson. |
| | Kentucky 1812 Crossing ..... | None | +732 | |

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

**ADDRESSES**

**City of Jackson**

Maps are available for inspection at 1137 Main Street, Jackson, KY 41339. Send comments to The Honorable Michael D. Miller, Mayor, City of Jackson, 333 Broadway Street, Jackson, KY 41339.

**Breathitt County (Unincorporated Areas)**

Maps are available for inspection at 1137 Main Street, Jackson, KY 41339.
Send comments to The Honorable H.J. Richardson, Breathitt County Judge Executive, 1137 Main Street, Jackson, KY 41339.

| **Osage County, Oklahoma, and Incorporated Areas** | | | | |
|---|---|---|---|---|
| Bird Creek ..... | Approximately 5,250 feet upstream from power line right-of-way. | *649 | +646 | Osage County (Unincorporated Areas). |
| | Approximately 8750 feet upstream from power line right-of-way. | *650 | +648 | |
| Eliza Creek ..... | Approximately 4,000 ft upstream from CR–2708 ..... | None | +695 | City of Bartlesville. |
| | Approximately 750 feet southwest intersection of Highway 60 and Highway 123. | None | +702 | |
| Euchee Creek ..... | Approximately 8,250 feet downstream from confluence with Euchee Creek Tributary (County Boundary). | *691 | +690 | Osage County (Unincorporated Areas). |
| | Approximately 2,000 feet upstream of Unnamed Dirt Road. | None | +791 | |
| Euchee Creek Tributary ..... | Confluence with Euchee Creek ..... | *699 | +700 | Osage County (Unincorporated Areas). |
| | Approximately 1050 feet upstream of intersection with North Willow Creek Road. | *719 | +720 | |
| Shell Creek ..... | Approximately 1,600 feet downstream of North 161 St. West Avenue. | None | +661 | Osage County (Unincorporated Areas). |
| | Confluence with UT 3 Shell Creek ..... | None | +677 | |
| UT 1 to Shell Creek ..... | Confluence with Shell Creek ..... | None | +668 | Osage County (Unincorporated Areas). |
| | Approximately 1820 feet upstream of Private Road .... | None | +805 | |
| UT 1 to UT to Horsepin Creek. | Approximately 3000 feet south of intersection of 166th Street and Railroad. | *640 | +638 | Osage County (Unincorporated Areas). |
| | Approximately 375 feet south of intersection of 166th Street and Railroad. | None | +644 | |
| UT 3 to Shell Creek ..... | Confluence with Shell Creek ..... | None | +677 | Osage County (Unincorporated Areas). |
| | Approximately 500 ft downstream of Shell Lake Dam | None | +693 | |
| UT 4 to Shell Creek ..... | Confluence with Shell Creek ..... | None | +668 | Osage County (Unincorporated Areas). |
| | Approximately 4000 feet of confluence with Shell Creek. | None | +673 | |
| UT to West Big Heart Creek | 4,000 feet downstream of mouth of creek (County Line). | None | +695 | City of Sand Springs. |
| | 2,750 feet downstream of mouth of creek ..... | None | +790 | |
| West Big Heart Creek (Formerly Blackboy Creek). | Approximately 10,500 feet downstream of mouth of creek (County Line). | *719 | +722 | Osage County (Unincorporated Areas). |
| | Approximately 8,000 feet downstream of mouth of creek. | *792 | +793 | |

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

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

**ADDRESSES**

**City of Bartlesville**

Maps are available for inspection at 401 South Johnston Ave., Bartlesville, OK 74003.
Send comments to The Honorable Julie Daniels, Mayor, City of Bartlesville, 401 South Johnston Ave., Bartlesville, OK 74003.

**City of Sand Springs**

Maps are available for inspection at P.O. Box 338, Sand Springs, OK 74063.
Send comments to The Honorable Robert Walker, Mayor, City of Sand Springs, P.O. Box 338, Sand Springs, OK 74063.

**Osage County (Unincorporated Areas)**

Maps are available for inspection at 628 Kinekah, Pawhuska, OK 74056–0087.
Send comments to Board of County Commissioners, 628 Kinekah, Pawhuska, OK 74056.

**Spartanburg County, South Carolina and Incorporated Areas**

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

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 4,540 feet upstream of confluence with Enoree River. | None | +715 | |
| Dutchman Creek | Approximately 1 mile downstream of Tucker Road | None | +481 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,370 feet upstream of Walnut Grove Pauline Road. | None | +645 | |
| Enoree River | Approximately 4.3 miles downstream of Interstate 26 | None | +401 | Spartanburg County (Unincorporated Areas). |
| | Approximately 125 feet upstream of State Highway 14 | None | +748 | |
| Tributary 1 | Confluence with Enoree River | None | +698 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,690 feet upstream of Sharon Church Road. | None | +790 | |
| Fairforest Creek | Approximately 80 feet downstream of Glen Springs Road. | None | +491 | Spartanburg County (Unincorporated Areas), City of Spartanburg. |
| | Approximately 100 feet downstream of Interstate 85 | None | +844 | |
| Tributary 1 | Confluence with Fairforest Creek | None | +497 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.3 miles upstream of confluence with Fairforest Creek. | None | +525 | |
| Tributary 2 | Approximately 50 feet upstream of Fairforest Creek | None | +574 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,320 feet upstream of West Road | None | +656 | |
| Tributary 3 | Approximately 300 feet upstream of confluence with Fairforest Creek. | None | +614 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,630 feet upstream of confluence with Fairforest Creek. | None | +631 | |
| Fawn Branch | Just upstream of Old Furnace Road | None | +807 | Spartanburg County (Unincorporated Areas). |
| | Approximately 870 feet upstream of Old Furnace Road. | None | +810 | |
| Tributary 1 | Just upstream of Old Furnace Road | None | +807 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,640 feet upstream of Clark Road | None | +883 | |
| Tributary 2 | Confluence with Fawn Branch Tributary 1 | None | +826 | Spartanburg County (Unincorporated Areas). |
| | Approximately 440 feet upstream of State Highway 9 | None | +873 | |
| Ferguson Creek | Approximately 190 feet downstream of Old Spartanburg Highway. | None | +627 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,990 feet upstream of Old Spartanburg Highway. | None | +638 | |
| Fleming Branch | Confluence with Fairforest Creek | None | +566 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,200 feet upstream of confluence with Fairforest Creek. | None | +576 | |
| Foster Creek | Approximately 330 feet upstream of Twin Oaks Road | None | +607 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Old Canaan Road. | None | +659 | |
| Tributary 1 | Confluence with Foster Creek | None | +636 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,000 feet upstream of confluence with Foster Creek. | None | +748 | |
| Fourmile Branch | Just upstream of Country Club Rd | *631 | +632 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,810 feet upstream of Pine Street | None | +734 | |
| Halfway Branch Tributary 1 | Approximately 600 feet upstream of confluence of Halfway Branch. | None | +680 | City of Spartanburg. |
| | Approximately 2,150 feet upstream of confluence with Halfway Branch Tributary 1. | None | +708 | |
| Halfway Branch Tributary 1 | Just downstream of Blackwood Drive | None | +686 | Spartanburg County (Unincorporated Areas), City of Spartanburg. |
| | Approximately 700 feet upstream of Perin Drive | None | +722 | |
| Island Creek | Confluence with Pacolet River | None | +655 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,000 feet upstream of Cemetery Road | None | +804 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Jamison Mill Creek | Confluence with South Pacolet River | None | +878 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Spivey Creek Road. | None | +920 | |
| Jimmies Creek (North) | Just upstream of Freys Drive | None | +665 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,190 upstream of Tucapau Road | None | +789 | |
| Jimmies Creek (South) | Confluence with North Tyger River | None | +440 | Spartanburg County (Unincorporated Areas), Town of Woodruff |
| | Approximately 1,550 feet upstream of Georgia Road | None | +696 | |
| Tributary 1 | Confluence with Jimmies Creek (South) | None | +444 | Spartanburg County (Unincorporated Areas). |
| | Approximately 5,070 feet upstream of confluence with Jimmies Creek (South). | None | +470 | |
| Kelsey Creek | Confluence with Fairforest Creek | None | +524 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,900 feet upstream of confluence with Thompson Creek. | None | +555 | |
| Lawsons Fork Creek | Just upstream of Meadow Farm Road | None | +802 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,320 feet upstream of Park Street | None | +937 | |
| Tributary 1 | Approximately 850 feet upstream of confluence with Lawsons Fork Creek. | None | +656 | City of Spartanburg. |
| | Approximately 3,890 feet upstream of Woodburn Road. | None | +701 | |
| Tributary 3 | Approximately 900 feet upstream of Lawsons Fork Creek. | *778 | +779 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,120 feet upstream of Honeysuckle Road. | None | +828 | |
| Tributary 4 | Just upstream of River Forest Rd | None | +787 | Spartanburg County (Unincorporated Areas). |
| | Approximately 400 feet upstream of Lyman Road | None | +864 | |
| Lick Creek | Confluence with Enoree River | None | +567 | Spartanburg County (Unincorporated Areas). |
| | Approximately 425 feet upstream of Allen Bridge Road. | None | +581 | |
| Little Buck Creek | Confluence with Buck Creek | None | +712 | Spartanburg County (Unincorporated Areas). |
| | Approximately 280 feet upstream of Cherokee Street | None | +841 | |
| Maple Creek | Just upstream of New Woodruff Road | None | +854 | Spartanburg County (Unincorporated Areas), City of Greer. |
| | Approximately 85 feet downstream of Acron Drive | None | +866 | |
| McElwain Creek | Approximately 3,266 feet downstream of Yard Road | None | +495 | Spartanburg County (Unincorporated Areas). |
| | Approximately 230 feet upstream of Yard Road | None | +499 | |
| Meadow Creek | Approximately 500 feet upstream of confluence with Lawson's Fork Creek. | *802 | +803 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,360 feet upstream of Interstate 26 | None | +849 | |
| Tributary 1 | Confluence with Meadow Creek | None | +823 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,380 feet upstream of Spring Valley Road. | None | +837 | |
| Middle Tyger River | Just upstream of Spartex Dam | None | +733 | Spartanburg County (Unincorporated Areas), Town of Duncan, Town of Lyman. |
| | Approximately 250 feet upstream of Sloan Road | None | +859 | |
| Tributary 1 | Approximately 1,800 feet upstream of confluence with Middle Tyger River. | *615 | +616 | Spartanburg County (Unincorporated Areas). |
| | Approximately 5,040 feet upstream of confluence with Middle Tyger River. | None | +629 | |
| Motlow Creek | Confluence with South Pacolet River | None | +826 | Spartanburg County (Unincorporated Areas), Town of Campobello. |
| | Approximately 740 feet upstream of Macedonia Church Road. | None | +943 | |

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|---|---|---|---|---|
| | | Effective | Modified | |
| North Pacolet River | Confluence with Pacolet River | None | +723 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,030 feet upstream of Landrum Road | None | +837 | |
| North Tyger River | Approximately 3,340 feet downstream of Highway 56 | None | +421 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2.2 miles upstream of Interstate 26 | None | +583 | |
| Tributary 1 | Just downstream of Interstate 26 | None | +594 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Stillhouse Road | None | +672 | |
| Tributary 2 | Approximately 1,780 feet upstream of confluence with North Tyger River. | *665 | +666 | Spartanburg County (Unincorporated Areas). |
| | Approximately 260 feet upstream of US Highway 29 | None | +748 | |
| Tributary 3 | Approximately 900 feet upstream of confluence with North Tyger River. | None | +736 | Spartanburg County (Unincorporated Areas), Town of Lyman. |
| | Approximately 1.6 miles upstream of Holly Springs Road. | None | +898 | |
| Obed Creek | Confluence with North Pacolet River | None | +737 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,100 upstream of Burnt Chimney Road. | None | +879 | |
| Pacolet River | Approximately 2.4 miles downstream of Chapel Drive | None | +476 | Spartanburg County (Unincorporated Areas). |
| | Confluence of North Pacolet River and South Pacolet River. | None | +723 | Town of Pacolet. |
| Tributary 1 | Confluence with Pacolet River | None | +632 | Spartanburg County (Unincorporated Areas). |
| | Approximately 290 feet upstream of Church Street | None | +765 | |
| Tributary 2 | Confluence with Pacolet River | None | +716 | Spartanburg County (Unincorporated Areas). |
| | Approximately 5,140 feet upstream of Fairfield Road | None | +875 | |
| Peters Creek | Confluence with Pacolet River | None | +630 | Spartanburg County (Unincorporated Areas). |
| | Approximately 210 feet downstream of Jones Road | None | +796 | |
| Ransom Creek | Approximately 1,120 feet upstream of confluence with North Tyger River. | *610 | +611 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,050 feet upstream of Schirra Court | None | +732 | |
| Tributary 1 | Confluence with Ransom Creek | None | +614 | Spartanburg County (Unincorporated Areas). |
| | Approximately 460 feet upstream of Interstate 26 | None | +640 | |
| Reedy Creek | Approximately 100 feet downstream of Old Canaan Road. | None | +624 | Spartanburg County (Unincorporated Areas). |
| | Approximately 230 feet upstream of McAbee Road | None | +667 | |
| Richland Creek | Confluence with South Pacolet River | None | +785 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.3 miles upstream of Hickory Nut Drive. | None | +832 | |
| Richland Creek East | Confluence with Pacolet River | None | +539 | Unincorporated Areas of Spartanburg County (Unincorporated Areas). |
| | Approximately 4,970 feet upstream of confluence with Pacolet River. | None | +540 | |
| Tributary 1 | Confluence with Richland Creek | None | +785 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,740 feet upstream of River Oak Road. | None | +825 | |
| Tributary 2 | Confluence with Richland Creek Tributary 1 | None | +792 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,860 feet upstream of confluence with Richland Creek Tributary 1. | None | +810 | |
| Tributary 3 | Confluence with Richland Creek | None | +785 | Spartanburg County (Unincorporated Areas). |
| | Approximately 570 feet upstream of Owens Dive | None | +855 | |
| Shoally Creek | Approximately 60 feet downstream of confluence with Shoally Creek Tributary 2. | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,580 feet upstream of Old Furnace Road. | None | +915 | |
| Tributary 1 | Approximately 300 feet upstream of confluence with Shoally Creek. | None | +752 | Spartanburg County (Unincorporated Areas). |

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| | | Effective | Modified | |
| | Approximately 250 feet upstream of Sandifer Road .... | None | +796 | |
| Tributary 2 ..... | Just upstream of confluence with Shoally Creek ..... | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,730 feet upstream of Burnett Road ... | None | +875 | |
| Tributary 3 ..... | Confluence with Shoally Creek ..... | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 150 feet upstream of McMillin Boulevard. | None | +850 | |
| South Pacolaet River Tributary 2. | Confluence with South Pacolet River Tributary 1 ..... | None | +832 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,410 feet upstream of confluence with South Pacolet River Tributary 1. | None | +861 | |
| South Pacolet River ..... | Confluence with Pacolet River ..... | None | +723 | Spartanburg County (Unincorporated Areas), Town of Campobello. |
| | Confluence of Jamison Mill Creek ..... | None | +878 | |
| Tributary 1 ..... | Confluence with South Pacolet River ..... | None | +825 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,230 feet upstream of Old Mill Road .. | None | +844 | |
| South Tyger River ..... | Confluence with North Tyger River ..... | None | +518 | Spartanburg County (Unincorporated Areas), City of Greer, Town of Duncan. |
| | Approximately 1.9 miles upstream of Wade Hampton Boulevard. | None | +771 | |
| Tributary 1 ..... | Confluence with South Tyger River ..... | None | +604 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,340 feet upstream of confluence with South Tyger River. | None | +612 | |
| Spivey Creek ..... | Confluence with South Pacolet River ..... | None | +857 | Spartanburg County (Unincorporated Areas). |
| | Approximately 140 feet upstream of Spivey Creek Road. | None | +876 | |
| Thompson Creek (North) ..... | Confluence with Pacolet River ..... | None | +714 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.1 miles upstream of Peachtree Road | None | +796 | |
| Thompson Creek (South) ..... | Confluence with Kelsey Creek ..... | None | +554 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.1 miles upstream of Johnson Lake Road. | None | +648 | |
| Turkey Hen Branch ..... | Confluence with Pacolet River ..... | None | +565 | Spartanburg County (Unincorporated Areas). |
| | Approximately 630 feet upstream of Harper Fish Camp Road. | None | +646 | |
| Twomile Creek ..... | Confluence with Enoree River ..... | None | +485 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,990 feet upstream of Parker Road .... | None | +513 | |
| Vines Creek ..... | Confluence with Abners Creek ..... | None | +717 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.2 miles upstream of Babe Wood Road. | None | +776 | |
| Wards Creek ..... | Confluence with North Tyger River ..... | None | +554 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,450 feet upstream of Harrison Grove Road. | None | +616 | |
| Wiley Fork Creek ..... | Confluence with Dutchman Creek ..... | None | +532 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,390 feet upstream of confluence with Dutchman Creek. | None | +537 | |
| Zekial Creek ..... | Confluence with Island Creek ..... | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,530 feet upstream of confluence with Island Creek. | None | +815 | |

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

**ADDRESSES**

**City of Greer**

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

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

**City of Spartanburg**

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

**Town of Campobello**

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

**Town of Duncan**

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

**Town of Lyman**

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

**Town of Pacolet**

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

**Town of Woodruff**

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

**Spartanburg County (Unincorporated Areas)**

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

**Rutherford County, North Carolina (Broad), and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Arrowood Branch | At the confluence with McKinney Creek | None | +708 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.7 mile upstream of the confluence with McKinney Creek. | None | +723 | |
| Beaverdam Creek (near State Road 1733). | At the confluence with First Broad River | None | +1,035 | Rutherford County (Unincorporated Areas). |
| | Approximately 600 feet upstream of Old C C Road (State Road 1731). | None | +1,449 | |
| Big Camp Creek | At the confluence with Second Broad River | None | +862 | Rutherford County (Unincorporated Areas). |
| | Approximately 970 feet upstream of Frog Creek Road | None | +984 | |
| Big Horse Creek | At the confluence with Broad River | None | +697 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.1 miles upstream of State Line Road (State Road 2105). | None | +749 | |
| Big Spring Branch | At the confluence with Second Broad River | None | +815 | Town of Forest City. |
| | Approximately 230 feet downstream of East Trade Street. | None | +974 | |
| Bills Creek | At the confluence with Cove Creek | None | +868 | Rutherford County (Unincorporated Areas), Town of Lake Lure. |
| | Approximately 1,300 feet upstream of Shumont Estates Drive. | None | +1,206 | |
| Tributary 2 | At the confluence with Bills Creek | None | +991 | Rutherford County (Unincorporated Areas). |
| | Approximately 800 feet upstream of Brookside Parkway. | None | +1,243 | |
| Tributary 3 | At the confluence with Bills Creek | None | +1,056 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Bills Creek Road (State Road 1008). | None | +1,239 | |
| Bowen Branch | At the confluence with Sandy Run | None | +865 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,300 feet upstream of Gene Walker Road (State Road 1763). | None | +875 | |
| Box Creek | At the confluence with Second Broad River | None | +953 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.7 mile upstream of the confluence with Second Broad River. | None | +1,010 | |

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| Bracketts Creek | At the confluence with Floyds Creek | None | +781 | Town of Forest City, Rutherford County (Unincorporated Areas). |
| | Approximately 490 feet upstream of Withrow Road | None | +973 | |
| Tributary 5 | At the confluence with Bracketts Creek | None | +902 | Town of Forest City. |
| | Approximately 0.4 mile upstream of South Church Street. | None | +941 | |
| Tributary 8 | At the confluence with Bracketts Creek | None | +955 | Town of Forest City. |
| | Approximately 0.4 mile upstream of Oak Street | None | +980 | |
| Brier Creek | At the confluence with First Broad River | None | +962 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,700 feet upstream of the confluence of Pot Branch. | None | +1,120 | |
| Broad River | At the Rutherford/Cleveland County boundary | None | +680 | Village of Chimney Rock, Town of Lake Lure, Rutherford County (Unincorporated Areas). |
| | At the Rutherford/Henderson County boundary | None | +1,411 | |
| Tributary 6 | At the confluence with Broad River | None | +694 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,700 feet upstream of Island Ford Road. | None | +697 | |
| Buck Branch (into Second Broad River). | At the confluence with Second Broad River | None | +818 | Rutherford County (Unincorporated Areas), Town of Forest City. |
| | Approximately 300 feet downstream of West Trade Street. | None | +949 | |
| Buck Branch (into West Fork Sandy Run). | At the Rutherford/Cleveland County boundary | None | +801 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.7 mile upstream of Rutherford/Cleveland County boundary. | None | +820 | |
| Buffalo Creek (into Lake Lure). | At the confluence with Broad River | None | +999 | Rutherford County (Unincorporated Areas), Town of Lake Lure. |
| | Approximately 7.0 miles upstream of confluence with the Broad River. | None | +2,818 | |
| Tributary 1 | At the confluence with Buffalo Creek (Lake Lure) | None | +1,192 | Rutherford County (Unincorporated Areas), Town of Lake Lure. |
| | Approximately 2.3 miles upstream of Buffalo Creek Road (State Road 1314). | None | +2,795 | |
| Cane Creek | At the confluence with Second Broad River | None | +855 | Rutherford County (Unincorporated Areas). |
| | At the Rutherford/McDowell County boundary | None | +975 | |
| Cane Creek (into Broad River). | At the confluence with Broad River | None | +693 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.5 mile upstream of the confluence with Broad River. | None | +694 | |
| Cane Creek (into Lake Lure) | At the confluence with Broad River | None | +999 | Rutherford County (Unincorporated Areas), Town of Lake Lure. |
| | Approximately 0.5 mile upstream of Girl Scout Camp Road (State Road 1186). | None | +1,355 | |
| Catheys Creek | At the confluence with Second Broad River | None | +829 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.5 mile upstream of Thermal City Road (State Road 1321). | None | +1,051 | |
| Tributary 16 | At the confluence with Catheys Creek | None | +872 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.4 mile upstream of the confluence with Catheys Creek. | None | +878 | |
| Cedar Creek | At the confluence with Cove Creek | None | +877 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,200 feet upstream of the confluence of Taylor Creek. | None | +1,154 | |
| Tributary 3 | At the confluence with Cedar Creek | None | +1,032 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.9 mile upstream of the confluence with Cedar Creek. | None | +1,151 | |

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| Charles Creek | At the confluence with Cleghorn Creek | None | +755 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.5 mile upstream of the confluence with Cleghorn Creek. | None | +755 | |
| Cherry Creek | At the confluence with Catheys Creek | None | +913 | Rutherford County (Unincorporated Areas). |
| | Approximately 500 feet upstream of Railroad | None | +951 | |
| Cleghorn Creek | At the confluence with Broad River | None | +755 | Rutherford County (Unincorporated Areas), Town of Rutherfordton. |
| | Approximately 0.5 mile upstream of Reece Street | None | +953 | |
| Tributary 10 | At the confluence with Cleghorn Creek | None | +865 | Town of Rutherfordton. |
| | Approximately 50 feet downstream of West 3rd Street | None | +910 | |
| Tributary 11 | At the confluence with Cleghorn Creek | None | +868 | Town of Rutherfordton. |
| | Approximately 20 feet downstream of Laurel Drive | None | +1,041 | |
| Tributary 12 | At the confluence with Cleghorn Creek | None | +892 | Town of Rutherfordton. |
| | Approximately 0.8 mile upstream of the confluence with Cleghorn Creek. | None | +988 | |
| Tributary 13 | At the confluence with Cleghorn Creek | None | +898 | Town of Rutherfordton. |
| | Approximately 0.4 mile upstream of North Main Street/U.S. Highway 221. | None | +954 | |
| Tributary 7 | At the confluence with Cleghorn Creek | None | +795 | Rutherford County (Unincorporated Areas), Town of Rutherfordton. |
| | Approximately 1,000 feet upstream of Hugh Street | None | +990 | |
| Tributary 9 | At the confluence with Cleghorn Creek | None | +832 | Rutherford County (Unincorporated Areas), Town of Rutherfordton. |
| | Approximately 150 feet downstream of NC Highway 108. | None | +886 | |
| Copper Mine Branch | At the confluence with Morrow Creek | None | +804 | Rutherford County (Unincorporated Areas), Town of Forest City. |
| | Approximately 800 feet upstream of Fairview Street | None | +953 | |
| Cove Creek | At the confluence with Broad River | None | +836 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.0 mile upstream of Painters Gap Road (State Road 1328). | None | +1,129 | |
| Crawley Branch | At the confluence with Big Camp Creek | None | +936 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,800 feet upstream of the confluence with Big Camp Creek. | None | +947 | |
| Dills Creek | At the confluence with Broad River | None | +714 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.8 mile upstream of the confluence with Broad River. | None | +716 | |
| Duncans Creek | At the Rutherford/Cleveland County boundary | None | +914 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.2 miles upstream of Duncans Creek Road (State Road 1749). | None | +987 | |
| East Branch Mountain Creek | At the confluence with Mountain Creek and West Branch Mountain Creek. | None | +823 | Rutherford County (Unincorporated Areas). |
| | Approximately 350 feet downstream of Piney Knob Road (State Road 1331). | None | +981 | |
| First Broad River | Approximately 1,000 feet downstream of the Rutherford/Cleveland County boundary. | None | +931 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,400 feet upstream of Golden Valley Church Road (State Road 1726). | None | +1,110 | |
| Floyds Creek | At the confluence with Broad River | None | +699 | Rutherford County (Unincorporated Areas). |
| | Approximately 500 feet upstream of Sunset Memorial Road (State Road 2179). | None | +941 | |
| Frasheur Creek | At the confluence with Greasy Creek | None | +1,125 | Rutherford County (Unincorporated Areas). |
| | At the Rutherford/McDowell County boundary | None | +1,152 | |
| Goodes Creek | At the confluence with Broad River | None | +695 | Rutherford County (Unincorporated Areas). |
| | Approximately 400 feet upstream of Island Ford Road | None | +695 | |

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| Grab Branch | At the confluence with Floyds Creek | None | +886 | Rutherford County (Unincorporated Areas). |
| | Approximately 90 feet downstream of U.S. 221S Highway. | None | +943 | |
| Tributary 1 | At the confluence with Grab Branch | None | +924 | Rutherford County (Unincorporated Areas). |
| | Approximately 900 feet upstream of Burch Hutchins Road (State Road 2171). | None | +944 | |
| Grays Creek | At the confluence with Broad River | None | +747 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.1 miles upstream of confluence with Broad River. | None | +762 | |
| Greasy Creek | At the confluence with Cove Creek | None | +1,125 | Rutherford County (Unincorporated Areas). |
| | At the Rutherford/McDowell County boundary | None | +1,153 | |
| Grog Creek | At the Rutherford/Cleveland County boundary | None | +833 | Rutherford County (Unincorporated Areas). |
| | Approximately 600 feet upstream of U.S. Highway 74 Bypass. | None | +892 | |
| Heaveners Creek | At the confluence with Roberson Creek | None | +902 | Rutherford County (Unincorporated Areas). |
| | Approximately 200 feet downstream of Joe Bostic Road (State Road 1712). | None | +915 | |
| Hensons Creek | At the confluence with Broad River | None | +720 | Rutherford County (Unincorporated Areas). |
| | Approximately 20 feet upstream of County Line Road (State Road 1101). | None | +822 | |
| Hills Creek | At the confluence with Second Broad River | None | +722 | Rutherford County (Unincorporated Areas). |
| | Approximately 290 feet upstream of Dobbins Road | None | +825 | |
| Hinton Creek | At the Rutherford/Cleveland County boundary | None | +979 | Rutherford County (Unincorporated Areas). |
| | Approximately 200 feet upstream of Hinton Creek Road (State Road 1753). | None | +1,054 | |
| Holland Creek | At the confluence with Second Broad River | None | +792 | Rutherford County (Unincorporated Areas). |
| | Approximately 450 feet upstream of Old Caroleen Road (State Road 1901). | None | +807 | |
| Hollands Creek | At the confluence with Catheys Creek | None | +836 | Rutherford County (Unincorporated Areas), Town of Ruth, Town of Rutherfordton, Town of Spindale. |
| | Approximately 1,800 feet upstream of U.S. Highway 221. | None | +950 | |
| Tributary 4 | At the confluence with Hollands Creek | None | +909 | Rutherford County (Unincorporated Areas), Town of Ruth. |
| | Approximately 500 feet upstream of Shady Woods Lane. | None | +959 | |
| Hunting Creek | At the confluence with Roberson Creek | None | +875 | Rutherford County (Unincorporated Areas). |
| | Approximately 250 feet upstream of Depriest Road (State Road 1713). | None | +1,067 | |
| Jarrets Creek | At the confluence with Broad River | None | +727 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.5 mile upstream of the confluence with Broad River. | None | +744 | |
| Knob Creek (into Broad River). | At the confluence with Broad River | None | +816 | Rutherford County (Unincorporated Areas). |
| | Approximately 800 feet upstream of McEntire Road (State Road 1341). | None | +921 | |
| Tributary 11 | At the confluence with Knob Creek (into Broad River) | None | +874 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.5 mile upstream of Pleasant Grove Road (State Road 1345). | None | +1,070 | |
| Tributary 9 | At the confluence with Knob Creek (into Broad River) | None | +862 | Rutherford County (Unincorporated Areas). |

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| | | Effective | Modified | |
| | Approximately 0.6 mile upstream of McEntire Road (State Road 1341). | None | +1,006 | |
| Little Camp Creek | At the confluence with Big Camp Creek | None | +870 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.4 mile upstream of Old Morganton Road (State Road 1513). | None | +926 | |
| Maple Creek | At the confluence with Mountain Creek | None | +784 | Rutherford County (Unincorporated Areas). |
| | Approximately 200 feet upstream of U.S. 64/74A Highway. | None | +903 | |
| McKinney Creek | At the confluence with Broad River | None | +705 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,500 feet upstream of Ted Smith Road (State Road 1104). | None | +789 | |
| Mill Creek (into Catheys Creek). | At the confluence with Catheys Creek | None | +957 | Unincorporated Areas of Rutherford County |
| | Approximately 0.8 mile upstream of the confluence with Catheys Creek. | None | +967 | |
| Morrow Creek | At the confluence with Second Broad River | None | +803 | Rutherford County (Unincorporated Areas), Town of Forest City. |
| | Approximately 0.8 mile upstream of Pine Street (State Road 1903). | None | +873 | |
| Mountain Creek | At the confluence with Broad River | None | +758 | Rutherford County (Unincorporated Areas). |
| | At the confluence with East Branch Mountain Creek and West Branch Mountain Creek. | None | +823 | |
| Tributary 16 | At the confluence with Mountain Creek | None | +816 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.0 mile upstream of Clearwater Parkway. | None | +954 | |
| Mountain Creek Tributary of Tributary 16. | At the confluence with Mountain Creek Tributary 16 | None | +834 | Rutherford County (Unincorporated Areas), Town of Rutherfordton. |
| | Approximately 700 feet downstream of Thompson Road (State Road 1367). | None | +987 | |
| North Fork First Broad River | At the confluence with First Broad River | None | +1,082 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.5 miles upstream of the confluence of Sally Queen Creek. | None | +1,397 | |
| Piney Creek | At the confluence with Cedar Creek | None | +895 | Rutherford County (Unincorporated Areas). |
| | Approximately 310 feet upstream of the confluence of Piney Creek Tributary 1. | None | +982 | |
| Tributary 1 | At the confluence with Piney Creek | None | +967 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.7 mile upstream of Bills Creek Road (State Road 1008). | None | +1,328 | |
| Piney Knob Creek | At the confluence with West Branch Mountain Creek | None | +879 | Rutherford County (Unincorporated Areas). |
| | Approximately 300 feet upstream of Elliott Road (State Road 1348). | None | +908 | |
| Pool Creek | At the confluence with Broad River (Lake Lure) | None | +999 | Town of Lake Lure. |
| | Approximately 1,900 feet upstream of Bottomless Pools Drive. | None | +1,122 | |
| Pot Branch | At the confluence with Brier Creek | None | +1,102 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.3 miles upstream of the confluence with Brier Creek. | None | +1,415 | |
| Puzzle Creek | At the confluence with Second Broad River | None | +804 | Rutherford County (Unincorporated Areas), Town of Bostic. |
| | Approximately 200 feet upstream of Piney Mountain Church Road (State Road 1007). | None | +893 | |
| Reynolds Creek | At the confluence with Hollands Creek | None | +897 | Rutherford County (Unincorporated Areas), Town of Spindale. |
| | Approximately 0.6 mile upstream of West Street | None | +1,046 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Richardson Creek | At the confluence with Broad River | None | +705 | Rutherford County (Unincorporated Areas). |
| | Approximately 100 feet upstream of Sulphur Springs Church Road (State Road 1135). | None | +807 | |
| Roberson Creek | At the confluence with Second Broad River | None | +825 | Rutherford County (Unincorporated Areas), Town of Bostic. |
| | Approximately 200 feet upstream of Calton Road (State Road 1745). | None | +1,056 | |
| Rosy Branch | At the confluence with Taylor Creek | None | +1,962 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.5 miles upstream of Twin Chimneys Road. | None | +2,727 | |
| Sally Queen Creek | At the confluence with North Fork First Broad River | None | +1,292 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.2 miles upstream of the confluence with North Fork First Broad. | None | +1,706 | |
| Sandy Run | At the Rutherford/Cleveland County boundary | None | +835 | Rutherford County (Unincorporated Areas). |
| | Approximately 150 feet upstream of Hopewell Road (State Road 1760). | None | +906 | |
| Second Broad River | At the confluence with Broad River | None | +680 | Rutherford County (Unincorporated Areas), Town of Forest City. |
| | Approximately 1.9 miles upstream of Box Creek Road (State Road 1500). | None | +990 | |
| Tributary 7 | At the confluence with Second Broad River | None | +750 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Old Henrietta Road (State Road 2129). | None | +786 | |
| Tributary 8 | At the confluence with Second Broad River | None | +758 | Rutherford County (Unincorporated Areas). |
| | Approximately 40 feet upstream of Chime Lane | None | +799 | |
| Somey Creek | At the confluence with First Broad River | None | +1,112 | Rutherford County (Unincorporated Areas). |
| | Approximately 400 feet upstream of Camp McCall Road (State Road 1749). | None | +1,231 | |
| South Creek | At the confluence with First Broad River | None | +1,075 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.3 miles upstream of Golden Valley Church Road (State Road 1726). | None | +1,121 | |
| Stoney Creek | At the confluence with Second Broad River | None | +974 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,400 feet upstream of Thermal City Road (State Road 1321). | None | +1,001 | |
| Suck Creek (into Broad River). | Approximately 1.1 miles downstream of Kirby Road | None | +769 | Rutherford County (Unincorporated Areas). |
| | Approximately 300 feet upstream of Kirby Road (State Road 1978). | None | +779 | |
| Taylor Creek | At the confluence with Cedar Creek | None | +1,147 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.5 mile upstream of the confluence of Rosy Branch. | None | +2,009 | |
| Tributary 1 | At the confluence with Taylor Creek | None | +1,841 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.6 mile upstream of Bison Meadows | None | +2,535 | |
| Webbs Branch | At the confluence with Second Broad River | None | +805 | Town of Forest City |
| | Approximately 0.4 mile upstream of Railroad | None | +907 | |
| Webbs Creek | At the confluence with Second Broad River | None | +789 | Rutherford County (Unincorporated Areas). |
| | Approximately 340 feet upstream of U.S. Highway 74 | None | +833 | |
| West Branch Mountain Creek | At the confluence with East Branch Mountain Creek and Mountain Creek. | None | +823 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.6 mile upstream of Darlington Road (State Road 1351). | None | +884 | |
| West Fork Sandy Run | At the Rutherford/Cleveland County boundary | None | +801 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,000 feet upstream of Hollis Road (State Road 1749). | None | +901 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Tributary 7 ..... | At the confluence with West Fork Sandy Run ..... | None | +825 | Rutherford County (Unincorporated Areas). |
| | Approximately 0.9 mile upstream of the confluence with West Fork Sandy Run. | None | +842 | |

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

**ADDRESSES**

**Town of Bostic**

Maps are available for inspection at the Bostic Town Hall, 104 Pearidge Road, Bostic, North Carolina.
Send comments to The Honorable Mitch Harrill, Mayor of the Town of Bostic, 177 South Main Street, Bostic, North Carolina 28018.

**Town of Forest City**

Maps are available for inspection at the Forest City Town Hall, 128 North Powell Street, Forest City, North Carolina.
Send comments to Mr. Charles Summey, II, Forest City Town Manager, P.O. Box 728, Forest City, North Carolina 28043.

**Town of Lake Lure**

Maps are available for inspection at the Lake Lure Town Hall, 2948 Memorial Highway, Lake Lure, North Carolina.
Send comments to The Honorable James Proctor, Mayor of the Town of Lake Lure, P.O. Box 255, Lake Lure, North Carolina 28746.

**Town of Ruth**

Maps are available for inspection at the Ruth Town Hall, 199 Northview-Dorsey Street, Ruth, North Carolina.
Send comments to The Honorable Don Baynard, Mayor of the Town of Ruth, 108 Northview-Dorsey Street, Ruth, North Carolina 28139.

**Town of Rutherfordton**

Maps are available for inspection at the Rutherfordton Town Hall, 129 North Main Street, Rutherfordton, North Carolina.
Send comments to The Honorable Sally Lesher, Mayor of the Town of Rutherfordton, 447 North Washington Street, Rutherfordton, North Carolina.

**Town of Spindale**

Maps are available for inspection at the Spindale Town Hall, 104 Reveley Street, Spindale, North Carolina.
Send comments to The Honorable Mickey Bland, Mayor of the Town of Spindale, P.O. Box 186, Spindale, North Carolina 28160.

**Unincorporated Areas of Rutherford County**

Maps are available for inspection at the Rutherford County Building and Inspections Department, 289 North Main Street, Rutherfordton, North Carolina.
Send comments to Mr. John Condrey, Rutherford County Manager, 289 North Main Street, Rutherfordton, North Carolina 28139.

**Village of Chimney Rock**

Maps are available for inspection at the Village of Chimney Rock Office, 109 Terrace Drive, Chimney Rock, North Carolina.
Send comments to The Honorable Barbara Melisky, Mayor of the Village of Chimney Rock, P.O. Box 300, Chimney Rock, North Carolina 28720.

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

Dated: April 10, 2007.

**David I. Maurstad,**

*Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E7–7593 Filed 4–19–07; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 224

**[Docket No. 070319062–7062–01; I.D. 021607C]**

**RIN 0648–XB64**

## Endangered and Threatened Species; Proposed Endangered Status for the Cook Inlet Beluga Whale

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** We, NMFS, have completed a comprehensive status review of the Cook Inlet population of beluga whale (*Delphinapterus leucas*) under the Endangered Species Act (ESA). Based on the findings from the status review and consideration of the factors affecting this species, we have concluded the Cook Inlet beluga whale constitutes a distinct population segment (DPS) that is in danger of extinction throughout its range. Accordingly, we are now issuing a proposed rule to list the Cook Inlet beluga whale DPS as an endangered species. We are soliciting information on issues relevant to the listing of the Cook Inlet beluga whale DPS under the ESA. Although we are not proposing to designate critical habitat at this time, we are also soliciting information on essential physical and biological features of Cook Inlet beluga whale habitat.

**DATES:** Comments on this proposed rule must be received by close of business on June 19, 2007. Requests for public

hearings must be made in writing by June 4, 2007.

**ADDRESSES:** Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- E-mail: *CIB-ESA-Endangered@noaa.gov*. Include in the subject line the following document identifier: Cook Inlet Beluga Whale PR. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: www.regulations.gov. Follow the instructions at that site for submitting comments.
- Mail: NMFS, P. O Box 21668, Juneau, AK 99802
- Hand delivery to the Federal Building : NMFS, 709 W. 9th Street, Juneau, AK.
- Fax: (907) 586–7012

The proposed rule, status review, maps, a list of the references cited in this document, and other materials relating to this proposal can be found on the NMFS Alaska Region website *http://www.fakr.noaa.gov/*.

**FOR FURTHER INFORMATION CONTACT:** Brad Smith, NMFS, 222 West 7th Avenue, Anchorage, Alaska 99517, telephone (907) 271–5006; Kaja Brix, NMFS, (907) 586–7235; or Marta Nammack, (301) 713–1401.

**SUPPLEMENTARY INFORMATION:**

## Background

On March 3, 1999, we received two petitions to list the Cook Inlet population of beluga whales as endangered under the ESA. The petitioners requested that we promulgate an emergency listing under section 4(b)(7) of the ESA, designate critical habitat for Cook Inlet beluga whales, and take immediate action to implement rulemaking to regulate the harvest of these whales. We issued a Final Rule on May 31, 2000 (65 FR 34590), designating Cook Inlet beluga whales as depleted within the meaning of section 3(1) of the Marine Mammal Protection Act, as amended (MMPA) (below its Optimum Sustainable Population), and codified at 16 U.S.C. 1362(1), and the underlying regulations codified at 50 CFR Part 216. However, at that time, we determined that the Cook Inlet beluga whale DPS was not threatened or endangered under the ESA (65 FR 38778; June 22, 2000) because legislative and management actions had been taken to reduce subsistence harvests to levels that would allow recovery, such that the DPS did not meet the definition of threatened or endangered.

The 2000 determination that ESA listing was not warranted was premised on at least two findings that justify further review. First, the only factor then known to be responsible for the decline in beluga abundance was subsistence harvest. Second, the 2000 Status Review used simulation modeling efforts that demonstrated this DPS was not likely to decline further if the harvest was reduced and an annual increase of 2 to 6 percent were assumed. Abundance estimates since harvest management began in 1999 have declined at an average rate of 4.1 percent per year, challenging the original findings.

In addition, the International Union for the Conservation of Nature and Natural Resources (IUCN) assessed the status of the Cook Inlet beluga whale in 2005 (Lowry *et al.*, 2006). The IUCN determined that this population had a 71 percent probability of having a negative growth rate (in 2005) and met its criteria for critically endangered status.

In consideration of the factors described above, we initiated a second Status Review for the Cook Inlet beluga whale (71 FR 14836; March 24, 2006). In the 2006 Status Review, we developed population models that considered various types of mortality and fecundity effects in terms of the decline or growth and recovery of the Cook Inlet beluga whale DPS. In these models, NMFS scientists considered several effects, including: (1) An Allee effect on fecundity at small population sizes; (2) a depressed per capita fecundity or survival, as might occur from habitat degradation or pollution; (3) a constant mortality effect independent of population size, as would occur from predation; (4) a random mortality effect, as would result from environmental perturbations or catastrophic events such as oil spills or volcanic activity; and (5) demographic stochasticity due to reduced population size. Models with these different effects were compared to the beluga population estimates from 1994 to 2005 to determine which model best matched the data, and likely outcomes were determined for the population.

Subsequently, we received a third petition to list the Cook Inlet beluga as an endangered species on April 20, 2006. That petitioner requested that we list the Cook Inlet beluga whale as endangered and designate critical habitat. The petitioner reviewed the biology and ecology of this population, its abundance and distribution, its designation as a DPS established through rulemaking in June 2000 (65 FR 38780), and the reasons for the Cook Inlet beluga whale's status (organized by the factors listed in section 4(a) (1) of the ESA). In response to this petition, we published a 90–day finding that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted (71 FR 44614; August 7, 2006). The second Status Review (NMFS, 2006) has now been completed and underlies this proposed rule.

## Description, Taxonomy, and Distribution

Beluga whales, members of the Family Monodontidae, are small, toothed whales that are white in color as adults. They are extremely social animals that are often found in groups numbering from ten to several hundred. Beluga whales are circumpolar in distribution and occur in seasonally ice-covered arctic and subarctic waters. Beluga whales occur along the coast of Alaska, except the Southeast panhandle region and the Aleutian Islands. Five distinct stocks are currently recognized in Alaska: Beaufort Sea, eastern Chukchi Sea, eastern Bering Sea, Bristol Bay, and Cook Inlet (Angliss and Outlaw, 2005).

## Abundance and Trends

The Cook Inlet population of beluga whales has probably always numbered fewer than several thousand animals, but has declined significantly from its historical abundance. It is difficult to accurately determine the magnitude of decline because there is no available information on the beluga whale population that existed in Cook Inlet prior to development of the south-central Alaska sub-Region, or prior to modern subsistence whaling by Alaska Natives. With no reliable abundance surveys conducted prior to the 1990s, scientists must estimate historical abundance. Portions of Cook Inlet surveyed during 1979 resulted in an abundance estimate of 1,293 beluga whales (Calkins, 1989). Those data represent the best available information on historical abundance.

We began comprehensive, systematic aerial surveys on beluga whales in Cook Inlet in 1993. These surveys documented a decline in abundance of nearly 50 percent between 1994 and 1998, from an estimate of 653 whales to 347 whales (Hobbs *et al.*, 2000).

After legislative measures were established in 1999 to regulate subsistence harvests, we had expected the population to grow at a rate between 2 and 6 percent. However, abundance estimates from aerial surveys (1999–2006) indicate this level of growth did not occur. Differences in survey methods and analytical techniques prior

to the 1994 survey rule out a precise statistical assessment of trends using the available population estimate from 1979. However, a comparison of the 1,293 beluga estimate in 1979 to 302 belugas in 2006 indicates a 77 percent decline in 27 years, but with unspecified confidence. This decline was mostly attributed to the subsistence harvest (through 1998); however, even with the restrictions on this harvest, the population continued to decline 4.1 percent per year.

**Review of ''Species'' Identification Under the ESA**

The ESA requires the Secretary of Commerce to determine whether species are endangered or threatened. The authority to list a ''species'' under the ESA is not restricted to species as recognized in formal taxonomic terms, but extends to subspecies and, for vertebrate taxa, to DPSs. NMFS and U.S. Fish and Wildlife Service (USFWS) issued a joint policy to clarify their interpretation of the phrase ''distinct population segment'' for the purposes of listing, de-listing, and reclassifying species under the ESA (61 FR 4722; February 7, 1996). The policy describes two elements to be considered in deciding whether a population segment can be identified as a DPS under the ESA: (1) discreteness of the population segment in relation to the remainder of the species to which it belongs; and (2) the significance of the population segment in relation to the remainder of the species to which it belongs.

*DPS Analysis*

Under the first element of the joint DPS policy, we found during our previous status review that the Cook Inlet beluga whale population is discrete because it is markedly separated from other populations of the same species (65 FR 38778; June 22, 2000). Of the five stocks of beluga whales in Alaska, the Cook Inlet population was considered to be the most isolated, based on the degree of genetic differentiation and geographic distance between the Cook Inlet population and the four other beluga stocks (O'Corry-Crowe *et al.*, 1997; 2002). This suggested that the Alaska Peninsula is an effective physical barrier to genetic exchange. The lack of beluga observations along the southern side of the Alaska Peninsula (Laidre *et al.*, 2000) also supported this conclusion. Murray and Fay (1979) stated that the Cook Inlet beluga population has been isolated for several thousand years, an idea that has since been corroborated by genetic data (O'Corry-Crowe *et al.*, 1997).

Under the second element, two factors we considered in determining whether this discrete population segment was significant to the remainder of the species were: (1) persistence in an ecological setting that is unique; and (2) whether the loss of the discrete population segment would result in a significant gap in the range of the species.

Cook Inlet is a unique biological setting in terms of these belugas because it supports the southernmost of the five extant beluga populations in Alaska, and is the only water south of the Alaska Peninsula, or within the Gulf of Alaska, which supports a viable population of beluga whales. The ecological setting of Cook Inlet is also unique in that it is characterized as an incised glacial fjord, unlike other beluga habitats to the north. Cook Inlet experiences large tidal exchanges and is a true estuary, with salinities varying from freshwater at its northern extreme to marine near its entrance to the Gulf of Alaska. No similar beluga habitat exists in Alaska or elsewhere in the United States.

In the 2000 Status Review, the Cook Inlet beluga whale population segment was considered to be the only beluga population that inhabits the Gulf of Alaska, and genetic data showed no mixing with other beluga population segments. Therefore, we determined that the loss of the Cook Inlet beluga population segment may result in the complete loss of the species in the Gulf of Alaska, with little likelihood of immigration from other beluga population segments into Cook Inlet.

Because we found that the Cook Inlet beluga whale population was discrete and significant, we determined that it constituted a DPS under the ESA (65 FR 38778; June 22, 2000).

*Research to Support Isolation Between the Cook Inlet DPS and Yakutat Belugas*

New research has become available since the species determination in the 2000 Status Review regarding the beluga whales that occur in Yakutat Bay, Alaska. These whales were included in the previous Cook Inlet beluga whale DPS. The Yakutat group consists of 12 belugas that are regularly observed in Yakutat Bay and have existed there as early as the 1930s (G. O'Corry-Crowe *et al.*, 2006). Since the 2000 Status Review, we have obtained biopsy samples from five individual whales that provide genetic information on their relationship to other Alaska belugas. That evidence (NMFS, unpublished data) shows the Yakutat group demonstrates a high degree of similarity in genetic markers, indicating that members of the Yakutat group likely comprise a single lineage or family (O'Corry-Crowe *et al.*, 2006). All five individuals possessed a common mtDNA haplotype (#2), a maternal lineage that is also found within other Alaska beluga whale stocks, including the Cook Inlet DPS. While small sample size precluded meaningful statistical analyses of differentiation, Haplotype #2 occurs at a much lower frequency in Cook Inlet and other stocks. The samples were also analyzed for polymorphism at 8 independent microsatellite loci. Preliminary DNA fingerprint analysis of the samples from the five individuals indicates that these individuals share, on average, a higher proportion of alleles at these loci than the average for belugas in other areas, suggesting that the Yakutat whales may be relatively more closely related to each other than to belugas in other areas. As with the mtDNA analysis, small sample size precluded meaningful analyses of population structure. However, these genetic results indicate that the sampled whales differ from a random sample of the Cook Inlet population. This, taken with the sighting data and behavioral observations, suggests that a small group of beluga whales may reside in the Yakutat Bay region year-round, and that these whales are reproductive, have a unique ecology, and a restricted seasonal home range.

Pursuant to the DPS Policy, geographic separation can also provide an indicator that population segments are discrete from each other. There is a large geographic separation (approximately 621 mi (1000 km)) between the Yakutat beluga group and the Cook Inlet beluga population segment, and no records exist that show any association between these whales. Therefore, we conclude that the Cook Inlet beluga population segment is discrete from this Yakutat beluga group.

NMFS considers the viability of an isolated group of 12 belugas to be low. Therefore, the loss of the Cook Inlet beluga population segment may result in the complete loss of the species in the Gulf of Alaska, with little likelihood of immigration from other beluga population segments into Cook Inlet.

Other beluga whale sightings have been recorded from the Gulf of Alaska, including Sitka, Prince William Sound, and Kodiak Island. However, none of these individuals represent persistent groups, and, therefore, are not considered part of the Cook Inlet DPS. We have insufficient information at this time to determine whether these whales are part of the Cook Inlet DPS.

*DPS Conclusion*

Based on the best available scientific information, we had previously determined that Cook Inlet beluga whale is a DPS, and, therefore, a species under section 3(15) of the ESA (65 FR 38778; June 22, 2000). At the time, the data were insufficient to distinguish the whales near Yakutat from the Cook Inlet population. However, genetic results and the fact that the 12 belugas in the Yakutat group are regularly observed in Yakutat Bay and not in Cook Inlet (O'Corry-Crowe, 2006) lead us to conclude that the Cook Inlet beluga whales are discrete from beluga whales near Yakutat. The conclusion reached in 2000 that the Cook Inlet population segment is significant to the beluga whale species remains valid for the same reasons mentioned in 2000, and is further supported by the information stated above regarding the low viability of the Yakutat group and the resultant potential for loss of beluga whales from Cook Inlet. Therefore, we conclude, given the best scientific information available, the Cook Inlet beluga whales comprise a DPS which is confined to waters of Cook Inlet, and does not include beluga whales found in Yakutat or other Gulf of Alaska waters beyond Cook Inlet. Through this rulemaking, we propose to modify the present description of the Cook Inlet beluga whale DPS, which is considered a species under the ESA, by removing those beluga whales occurring near Yakutat or outside Cook Inlet waters.

**Geographic Range of the Species**

The range of Cook Inlet belugas has been previously defined as the waters of the Gulf of Alaska north of 58° N and freshwater tributaries to these waters based on available scientific data in 2000 (65 FR 34590; May 31, 2000; MMPA Sec. 216.15(g)). There are few beluga sightings in the Gulf of Alaska outside Cook Inlet. Laidre *et al.* (2000) summarized available information on prehistoric to current distribution of belugas in the Gulf of Alaska, and, with the exception of Yakutat, sightings have been rare and sporadic given the extent of the survey efforts. Of 169,550 cetacean sightings recorded in the Gulf of Alaska prior to the year 2001, excluding Cook Inlet, only 44 were beluga (Laidre *et al.*, 2000), indicating they are extremely rare in the Gulf of Alaska outside Cook Inlet.

Calkins (1989) described belugas in Cook Inlet, Prince William Sound, Yakutat Bay, and throughout the coastal waters of the Gulf of Alaska, from the northern portions of Kodiak Island to Yakutat. In the 1970s and 1980s, beluga sightings occurred across much of mid- and upper Cook Inlet (Calkins, 1984), but in the 1990s the summer distribution diminished to only the northernmost portions of Cook Inlet (Rugh *et al.*, 2000). More of the Inlet was used by beluga whales during the spring, summer, and fall during the 1970s and 1980s than is presently used; for instance, sightings in the Kenai River area were common, and beluga concentrations were reported in Trading Bay and Kachemak Bay (Calkins, 1984). Such areas are rarely used by belugas at the present time, except perhaps in winter.

To identify Cook Inlet beluga habitat use, particularly in winter, NMFS researchers placed satellite positioning tags on 18 beluga whales between 1999 and 2002. Those tagged whales remained in Cook Inlet, indicating that belugas occupy Cook Inlet year round and do not display the seasonal migrations that northern beluga populations display. Considering this research and the genetic information discussed above, we conclude the present range of the Cook Inlet beluga is limited to Cook Inlet waters north of a line from Cape Douglas to Cape Elizabeth.

**Extinction Risk Assessment**

NMFS' Status Review includes an extinction risk assessment for this DPS through a detailed population viability analysis (PVA). The extinction risk analysis used population models developed specifically for the Cook Inlet beluga whale. These age and gender-structured models included parameters specific to this beluga population (e.g. reproductive age, calving intervals, natural mortality, random stranding events, killer whale predation, managed harvests, and episodic events such as oil spills). Ten thousand individual trials from the models were selected for analysis. From these, the ''baseline'' model (Model A in the Status Review), using no threshold effects, predicted a decline in 65 percent of the cases, and extinction within 300 years for 29 percent of the cases. The ''most likely'' model (Model H in the Status Review), which best approximated the current population (this assumed a single annual killer whale predation mortality and an unusual mortality event every 20 years), predicted the risk of extinction as 26 percent within 100 years (Shelden *et al.*, 2003). The risk analysis concluded that this probability would be much larger if the annual mortality rates assumed were increased by either killer whale predation or other means.

Small population viability is further compromised by the increased risk of inbreeding and the loss of genetic variability through drift, which reduces their resistance to disease and environmental change (Lacy, 1997; O'Corry-Crowe and Lowry, 1997). Estimates of genetic variation do not, at present, suggest that the Cook Inlet beluga whale DPS is highly inbred or that a critical amount of genetic variation has been lost through drift (O'Corry-Crowe *et al.*, 1997; Lowry *et al.*, 2006; G. O'Corry-Crowe, unpublished data), but this population is already at a population size where eventual loss of genetic variability is expected (Lowry *et al.*, 2006).

**Summary of Factors Affecting Cook Inlet Beluga Whales**

The ESA defines endangered species as a species ''in danger of extinction throughout all or a significant portion of its range.'' Section 4(a)(1) of the ESA and the listing regulations (50 CFR part 424) set forth procedures for listing species. We must determine, through the regulatory process, whether a species is endangered or threatened because of any one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, recreational, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

A discussion of these factors follows.

*The Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range*

Habitat for this species has been modified by municipal, industrial, and recreational activities in upper Cook Inlet, where belugas concentrate. It is possible that the range of Cook Inlet beluga whales has been diminished by these activities, either individually or cumulatively. Rugh *et al.* (2000) indicated that the summer occurrence of Cook Inlet beluga whales shifted to the upper Inlet in recent decades, whereas historically, belugas were also found in the mid- to lower Inlet. Such a change could be due to habitat alteration or development, but could also be attributed to other factors. For example, the population reduction may have resulted in Cook Inlet beluga whales inhabiting only the preferred feeding areas (i.e., the upper Inlet) within their normal range. Therefore, the change in distribution does not necessarily reflect any reduction in habitat or habitat

quality in the mid- to lower Inlet. No information exists that beluga habitat has been modified or curtailed to an extent that it is likely to have caused the population declines observed within Cook Inlet.

However, concern is warranted for the continued development within and along upper Cook Inlet and the cumulative effects on important beluga habitat. Several significant developments within the upper Inlet are permitted or planned, which may have adverse consequences. These include: (1) Major expansion to the Port of Anchorage, which requires filling more than 135 acres of intertidal and subtidal habitat, with increased in-water noise from pile driving, dredging, and expanded port operations; (2) Port McKenzie expansion as a commercial port facility directly across a narrow portion of upper Cook Inlet from the Port of Anchorage; (3) the proposed Knik Arm Bridge, which would increase in-water noise with both construction and operational activities and would occupy a portion of upper Cook Inlet that is presently undeveloped and provides important beluga feeding and other habitats; and (4) construction and operation of a large coal mine and marine terminal along the west side of upper Cook Inlet, near the Native Village of Tyonek. Ongoing activities that may impact this habitat include: (1) continued oil and gas exploration, development, and production; and (2) industrial activities that discharge or accidentally spill pollutants (e.g., petroleum, seafood processing, ship ballast, municipal wastewater treatment systems, runoff from urban, mining, and agricultural areas). The extinction risk assessment indicates that very small increases in mortality for this DPS have large effects on its continued existence. Destruction and modification of habitat may result in ''effective mortalities'' by reducing carrying capacity or fitness for individual whales, with the same consequence to the population survival as direct mortalities. Therefore, threatened destruction and modification of Cook Inlet beluga whale DPS habitat contributes to the proposed endangered status.

*Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

A brief commercial whaling operation existed along the west side of upper Cook Inlet during the 1920s, where 151 belugas were harvested in 5 years (Mahoney and Sheldon, 2000). There was also a sport (recreational) harvest for beluga whales in Cook Inlet prior to enactment of the MMPA in 1972. We have no record on this harvest level. The 1979 whale survey by the Alaska Department of Fish and Game (Calkins, 1989) provided an abundance estimate of 1,293 whales. Although we are uncertain of the level of depletion and exploitation in 1979, this remains the largest population abundance estimate for the Cook Inlet beluga DPS. Based on this estimate, we used 1,300 belugas as the carrying capacity in the PVA for the extinction risk assessment (Hobbs *et al.*, 2006). With protections offered by the MMPA, commercial and recreational beluga harvest no longer contribute to endangering the Cook Inlet beluga whale DPS.

Beluga whales are also taken for scientific purposes, but this work requires authorization under the MMPA and cannot have more than a negligible impact on the stock. Invasive research such as beluga capture and tagging, and boat survey work, may temporarily displace whales from important habitats, including feeding habitat, and may rarely result in injury or mortality. The magnitude of this impact cannot be reasonably estimated, but we believe it is not a reason that would support a listing determination.

We are not aware of any live Cook Inlet belugas currently in aquaria and used for educational purposes. Therefore, educational purposes do not contribute to the proposed endangered status.

*Disease or Predation*

A considerable amount of information now exists on the occurrence of diseases in beluga whales, including Cook Inlet belugas, and the effects of these diseases on the species. This information is described in our draft Conservation Plan (see *http://www.fakr.noaa.gov/protectedresources/whales/beluga/mmpa/draft/conservationplan032005.pdf*). Diseases and parasites occur in Cook Inlet beluga whales. Despite the considerable pathology that has been done on belugas, nothing indicates that the occurrence of diseases or parasites has had a measurable impact on their survival and health. Therefore, diseases and parasites are not known to be factors that have led to the current status of the Cook Inlet beluga whale DPS.

Transient killer whales are a natural predator on beluga whales in Cook Inlet. Killer whale sightings in the upper Inlet (18 reported sightings in 27 years) appear to be relatively infrequent, and not all killer whales prey on marine mammals. However, killer whales are thought to take at least one Cook Inlet beluga per year (Shelden *et al.*, 2003).

Assessing the impact of killer whale predation on Cook Inlet beluga whales is difficult. Anecdotal reports often highlight the more sensational mortalities on beluga whales due to killer whales, thereby overemphasizing their impact. Further, some reports are from the early 1980s when beluga whales were more abundant and more widely distributed. Consequently, the predation reports are of minimal value in evaluating current killer whale impacts to the Cook Inlet beluga whale DPS. The loss of more than one beluga whale annually could impede recovery, particularly if total mortality due to predation would be near the recruitment level in the DPS. The best available information does not allow us to accurately quantify the mortality level due to killer whale predation or its effect on the DPS. However, continued removal of belugas in excess of one per year would have a significant effect on the extinction probability for the Cook Inlet beluga whale.

While disease and predation occur in the Cook Inlet beluga population and may affect reproduction and survival, neither appears to be a likely contributor to the observed decline. However, the present low population abundance and the gregarious nature of beluga whales predispose the population to significant consequences from disease and predation, which contributes to the probability of extinction, and, therefore, to the proposed classification as endangered under the ESA.

*The Inadequacy of Existing Regulatory Mechanisms*

The MMPA exempts Alaska Natives from the prohibitions on the taking of marine mammals, including beluga whales. Sections 101(b)(3) and 103 of the MMPA provide for subsistence harvest regulations for marine mammal stocks designated as depleted under that Act, after notice and administrative hearings as prescribed by the MMPA. Excessive harvests occurred before May 1999 when Public Law 106–31 required such taking of Cook Inlet beluga whales occur pursuant to a cooperative agreement between NMFS and affected Alaska Native organizations. This law, later made permanent by Public Law 106–553, did not specify a harvest level, nor present a harvest management plan. In May 2000, we designated the Cook Inlet belugas as a depleted stock under the MMPA. We promulgated interim harvest regulations that provided a harvest management plan from 2001 through 2004 (69 FR 17973; April 6, 2004). The absence of legal authority to control subsistence harvest prior to 1999

is considered a contributing factor to the Cook Inlet beluga whale DPS decline.

Annual co-management agreements have been signed between NMFS and the Cook Inlet Marine Mammal Council in compliance with Public Laws 106–31 and 106–553. We have worked extensively with experts, including Native hunters, to use the best available science and traditional knowledge in our management and conservation efforts. This includes workshops by NMFS, the Alaska Beluga Whale Committee, the Alaska Scientific Review Group, and the Cook Inlet Marine Mammal Council. A technical working group was appointed by an administrative law judge in 2005 to consider a Cook Inlet beluga harvest management plan for 2005 and subsequent years that would recover Cook Inlet belugas and allow for traditional subsistence. Harvests from this population have been restricted to zero, one, or two whales annually since 1999, due to cooperative efforts by Native hunters and NMFS. We are currently preparing a Draft Supplemental Environmental Impact Statement (SEIS) on the subsistence harvest management of Cook Inlet belugas. This Draft SEIS will be followed by a Final SEIS and harvest regulations. Harvest regulations will propose a harvest strategy based on the abundance and growth of the population and a population abundance ''floor'' below which no harvest would occur. Despite the limited harvests since 1999 (five belugas in 8 years), the Cook Inlet beluga whale DPS has declined 4.1 percent per year.

*Other Natural or Manmade Factors Affecting its Continued Existence*

Impacts of Past Subsistence Harvest Efforts

The Cook Inlet beluga whale has been hunted by Alaska Natives for subsistence purposes and for traditional handicrafts. The subsistence provisions under the MMPA allow the sale of edible products and traditional handicrafts from marine mammals in Alaska Native villages, including Anchorage, or for Alaska Native consumption. Muktuk (whale skin and underlying blubber layer) from Cook Inlet belugas was sold in Anchorage markets prior to 1999, after which the practice was prohibited by co-management agreements between NMFS and the Cook Inlet Marine Mammal Council. Alaska Natives have legally harvested Cook Inlet beluga whales prior to and after passage of the MMPA in 1972. The effect of past harvest practices on the Cook Inlet beluga whale is significant. While subsistence harvest occurred at unknown levels for decades, the observed decline from 1994 through 1998 and the reported harvest (including estimates of whales which were struck but lost, and assumed to have perished) indicated these harvest levels were unsustainable.

Annual subsistence take by Alaska Natives during 1995–1998 averaged 77 whales (Angliss and Lodge, 2002). The harvest, which was as high as 20 percent of the population in 1996, was sufficiently high to account for the 14 percent annual rate of decline in the population during 1994 through 1998 (Hobbs *et al.*, 2000). In 1999 there was no harvest as the result of a voluntary moratorium by the hunters and Public Law 106–31. Harvests have been greatly reduced since 1998, with only five whales taken between 1999 and 2006. However, the subsistence removals reported during the 1990s are sufficient to account for the declines observed in this population and must be considered as a factor in the proposed classification of the Cook Inlet beluga whale DPS as endangered.

Impacts of Stranding Events

Cook Inlet beluga whales are known to become stranded along the shorelines and mudflats of Cook Inlet. These stranding events are not uncommon. NMFS has reports of 804 stranded whales (some of which were involved in mass stranding events) in upper Cook Inlet since 1988 (Vos and Shelden, 2005). Mass stranding events occurred most frequently along Turnagain Arm, and often coincided with extreme tidal fluctuations (''spring tides'') and/or killer whale sighting reports (Shelden *et al.*, 2003). Other mass strandings have been reported in the Susitna Delta (Vos and Shelden, 2005) and most recently on September 12, 2006, in Knik Arm (B. Mahoney, NMFS Alaska Region Office, unpublished data). Belugas are usually able to survive a stranding event and escape to deeper water on the rising tide. However, some deaths during these events do occur. For example, in one unusual case in August 2003, at least 46 belugas stranded in Turnagain Arm for over 10 hours, and of these, at least five whales are known to have died. In a more typical case, another 58 belugas stranded in two events in Turnagain Arm the following month with no identified mortalities (Vos and Shelden, 2005).

Catastrophic mortality (the deaths of a large number, such as 20 percent of the population) due to a mass stranding event or other events such as ice entrapment, oil spill, or volcanic activity was considered in simulations of the Cook Inlet beluga and assigned a probability of 5 percent per year for purposes of the status review (NMFS, 2006). Such mortality, if it occurred, could significantly impede recovery or force the population below a threshold to which it would not otherwise be vulnerable and from which it could not recover; however, such catastrophic mortality has not been reported in Cook Inlet. Although live mass strandings have occurred, between 1988 and 2000 only12 belugas were reported dead out of 650 belugas that stranded (Vos and Shelden, 2005). Mass stranding events are not believed to be a factor that has caused, or had a significant role in, the decline of the Cook Inlet beluga whale DPS.

**Conservation Efforts**

When considering the listing of a species, section 4(b)(1)(A) of the ESA requires consideration of efforts by any State, foreign nation, or political subdivision of a State or foreign nation to protect such species. Such efforts would include measures by Native American tribes and organizations and local governments, and may also include efforts by private organizations. Also, Federal, tribal, state, and foreign recovery actions (16 U.S.C. 1533(f)) constitute conservation measures. On March 28, 2003, NMFS and USFWS published the final Policy for Evaluating Conservation Efforts (PECE)(68 FR 15100). The PECE provides guidance on evaluating current protective efforts identified in conservation agreements, conservation plans, management plans, or similar documents (developed by Federal agencies, state and local governments, tribal governments, businesses, organizations, and individuals) that have not yet been implemented or have been implemented but have not yet demonstrated effectiveness. The PECE establishes two basic criteria for evaluating current conservation efforts: (1) the certainty that the conservation efforts will be implemented, and (2) the certainty that the efforts will be effective. The PECE provides specific factors under these two basic criteria that direct the analysis of adequacy and efficacy of existing conservation efforts.

Cook Inlet beluga whales benefit from protections afforded by the MMPA. The Cook Inlet beluga whale was designated as a depleted stock under the MMPA in 2000, and a draft Conservation Plan was published (70 FR 12853; March 16, 2005). That conservation plan is comprehensive and provides recommendations to foster recovery. While some recommendations are funded, many recommendations are

unfunded. Therefore, it is uncertain whether these beluga conservation measures will be implemented. Federal law (Public Law 106–553) prohibits the taking of Cook Inlet beluga whales except through a cooperative agreement between NMFS and affected Alaska Native organizations. Presently, co-management agreements are signed annually with the Cook Inlet Marine Mammal Council to establish strike (harvest) limits and set forth requirements intended to minimize waste and prevent unintentional harassment. Harvest regulations are being considered to address the management of Cook Inlet beluga subsistence hunting. Once implemented, these regulations will constitute an effective conservation plan regarding Alaska Native subsistence harvest. They will not, however, be comprehensive in addressing the many other issues now confronting Cook Inlet belugas.

We are not aware of conservation efforts undertaken by foreign nations specifically to protect Cook Inlet beluga whales. We support all conservation efforts currently in effect; however, these efforts lack the certainty of implementation and effectiveness so as to have removed or reduced threats to Cook Inlet belugas. In developing our final listing determination, we will consider the best available information concerning these conservation efforts and any other protective efforts by states or local entities for which we have information (See description of PECE above).

**Proposed Listing Determination**

We have reviewed the extinction risk analysis for the Cook Inlet beluga whale, considered the factors in section 4(a)(1) of the ESA, and taken into account conservation efforts to protect the species. We conclude that the Cook Inlet beluga whale is in danger of extinction throughout all of its range because of: present or threatened destruction, modification or curtailment of habitat or range; the inadequacy of existing regulatory mechanisms (largely the past absence of regulations on subsistence harvests); disease and/or predation (further predation by killer whales can be shown to have a significant impact on survival); and other natural and manmade factors affecting its continued existence (effects of past subsistence removals). See the ''Factors Affecting the Species'' section above for a description of the specific risks associated with section 4(a)(1). This endangered determination is supported by the results of population modeling which indicate a probability of extinction (for what is considered the most realistic scenario) of 26 percent within the next 100 years.

We convened a workshop in February 2000 to develop ESA recovery criteria for large whales. That workshop concluded that a reasonable, conservative definition for endangered status would be a probability of extinction greater than or equal to 1 percent in 100 years. While that threshold may be conservative, the significantly greater extinction risk of 26 percent in 100 years modeled for the Cook Inlet beluga provides a strong justification for endangered status. Further, the factors confounding recovery have not been thoroughly identified and may continue to persist until more is known and corrective actions can be taken. We also conclude that, at present, no protective or conservation measures are in place that will substantially mitigate the factors affecting the future viability and recovery of the Cook Inlet beluga whale DPS.

Based on the best available scientific and commercial information, we propose that the Cook Inlet beluga whale be listed under the ESA as an endangered species.

**Prohibitions and Protective Measures**

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction.

Section 7(a)(2) of the ESA requires Federal agencies to consult with NMFS to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify critical habitat. Under Section 7(a)(4), Federal agencies must confer with us on any of these activities to ensure that any such activity is not likely to jeopardize the continued existence of a species proposed for listing or destroy or adversely modify proposed critical habitat. Examples of Federal actions that may affect the Cook Inlet beluga whale include permits and authorizations relating to coastal development and habitat alteration, oil and gas development (including seismic exploration), toxic waste and other pollutant discharges, Federal fishery management plans, and cooperative agreements for subsistence harvest.

Sections 10(a)(1)(A) and (B) of the ESA authorize NMFS to grant exceptions to the ESA's Section 9 take prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-federal) for scientific purposes or to enhance the propagation or survival of a listed species. Activities potentially requiring a section 10(a)(1)(A) research/enhancement permit if Cook Inlet beluga whales are listed include scientific research that targets Cook Inlet beluga whales. Under section 10(a)(1)(B), the Secretary may permit takings otherwise prohibited by section 9(a)(1)(B) if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity, provided that the requirements of section 10(a)(2) are met.

**Critical Habitat**

Section 3 of the ESA defines critical habitat as ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed....on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed...upon a determination by the Secretary that such areas are essential for the conservation of the species.'' Section 3 of the ESA (16 U.S.C. 1532(3)) also defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.''

Section 4(a)(3) of the ESA requires that, to the extent practicable and determinable, critical habitat be designated concurrently with the listing of a species. Designation of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat. Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure that they do not fund, authorize, or carry out any actions that are likely to destroy or adversely modify that habitat. This requirement is in addition to the section 7 requirement that Federal agencies ensure their actions do not jeopardize the continued existence of the species.

In determining what areas qualify as critical habitat, 50 CFR 424.12(b) requires that NMFS ''consider those physical or biological features that are essential to the conservation of a given species including space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or

physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.'' The regulations further direct NMFS to ''focus on the principal biological or physical constituent elements . . . that are essential to the conservation of the species,'' and specify that the ''known primary constituent elements shall be listed with the critical habitat description.'' The regulations identify primary constituent elements (PCEs) as including, but not limited to: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.''

The ESA directs the Secretary of Commerce to consider the economic impact of designating critical habitat, and under section 4(b)(2) the Secretary may exclude any area from such designation if the benefits of exclusion outweigh those of inclusion, provided that the exclusion will not result in the extinction of the species. We are considering proposal of critical habitat for the Cook Inlet beluga whale in a separate rulemaking. To assist us with that rulemaking, we specifically request information on the economic attributes within the Cook Inlet region that could be impacted by critical habitat designation, as well as identification of the PCEs or ''essential features'' of this habitat and to what extent those features may require special management considerations or protection.

**Public Comments Solicited**

We request interested persons to submit comments, information, and suggestions concerning this proposed rule. We solicit comments or suggestions from the public, other concerned governments and agencies, Alaska Natives, the scientific community, industry, or any other interested party. Comments are particularly sought concerning:

(1) The current population status of the Cook Inlet beluga whale;

(2) Biological or other information regarding the threats to this species;

(3) Information on the effectiveness of ongoing and planned conservation efforts by states or local entities;

(4) Information related to the identification of critical habitat and essential physical or biological features for this species; and

(5) Economic or other relevant impacts of designation of critical habitat.

You may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** ). The proposed rule, maps, and other materials relating to this proposal can be found on the NMFS Alaska Region website at *http://www.fakr.noaa.gov/*. Comments and information received during the comment period on this proposed rule will be considered in the final decision whether to list the Cook Inlet beluga whale DPS as endangered and any future proposal to designate critical habitat.

**Public Hearings**

50 CFR 424.16(c)(3) requires the Secretary to promptly hold at least one public hearing, if requested, within 45 days of publication of a proposed regulation to list a species under the ESA. Requests for public hearing must be made in writing (see **ADDRESSES**) by June 4, 2007. Such hearings provide the opportunity for interested individuals and parties to give comments, exchange information and opinions, and engage in a constructive dialogue concerning this proposed rule. We encourage the public's involvement in such ESA matters.

**Classification**

*National Environmental Policy Act (NEPA)*

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in Pacific Legal Foundation v. Andrus, 675 F. 2d825 (6th Cir. 1981), we have concluded that ESA listing actions are not subject to the environmental assessment requirements of the NEPA. (See NOAA Administrative Order 216–6.)

*Executive Order (E.O.) 12866, Regulatory Flexibility Act and Paperwork Reduction Act*

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analyses required by the Regulatory Flexibility Act are not applicable to the listing process. In addition, this rule is exempt from review under E.O. 12866. This proposed rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

*E.O. 13132, Federalism*

Recognizing the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, and in keeping with Department of Commerce policies, we request information from, and will coordinate development of, this proposed ESA listing with appropriate State resource agencies in Alaska.

*E.O. 13175, Consultation and Coordination with Indian Tribal Governments*

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and co-management agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. E.O. 13175 - Consultation and Coordination with Indian Tribal Governments - outlines the responsibilities of the Federal Government in matters affecting tribal interests. Section 161 of Public Law 108–199 (188 Stat. 452), as amended by section 518 of Public Law 108- 447 (118 Stat. 3267), directs all Federal agencies to consult with Alaska Native corporations on the same basis as Indian tribes under E.O. 13175.

We will contact any tribal governments or Native corporations which may be affected by the proposed action, provide them with a copy of this proposed rule, and offer the opportunity to comment on the proposed rule and discuss any concerns they may have.

**References Cited**

A complete list of all references cited in this rulemaking can be found on our website at *http://www.fakr.noaa.gov/* and is available upon request from the NMFS office in Juneau, Alaska (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 224**

Endangered and threatened species.

Dated: April 16, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, we propose to amend part 224, title 50 of the Code of Federal Regulations as set forth below:

## PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

1. The authority citation of part 224 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

**§ 224.101 [Amended]**

2. In § 224.101, amend paragraph (b) by adding, ''Cook Inlet distinct population segment of beluga whale (*Delphinapterus leucas*)'' in alphabetical order.

[FR Doc. E7–7577 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 660

**[Docket No. 070227047–7047–01; I.D. 020405C]**

**RIN 0648–AS96**

## Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 14; Essential Fish Habitat Descriptions for Pacific Salmon

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendment 14 to the Pacific Salmon Fishery Management Plan (Salmon FMP) to identify and describe essential fish habitat (EFH) for Pacific salmon. The intent of this proposed rule is to codify the EFH identifications and descriptions for freshwater and marine habitats of Pacific salmon managed under the Salmon FMP, including Chinook, coho, and pink salmon. This proposed rule complies with an order issued by the U.S. District Court of Idaho directing NMFS to codify the EFH identifications and descriptions contained in the Salmon FMP. This proposed EFH rule is separate and distinct from the December 2004 proposed critical habitat rules in which NMFS proposed critical habitat for seven groupings of Chinook and coho salmon listed as threatened or endangered species under the Endangered Species Act (ESA). Where EFH and critical habitat overlap, NMFS will generally merge the results of both consultations into one response package to maximize regulatory efficiencies whenever possible.

**DATES:** Comments must be received by July 19, 2007.

**ADDRESSES:** You may submit comments or obtain a supplemental regulatory impact review to amendment 14 to the Pacific Salmon Fishery Management Plan by any of the following methods:

- *E-mail: EFH.salmon@NOAA.gov*. Include in the subject line the following identifier ''RIN 0648–AS96.''
- *Federal e-Rulemaking Portal: http://www.regulations.gov*.
- *Mail:* For submitting paper, disk or CD ROM comments. Frank Lockhart, NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115.
- *Fax:* 206–526–6736.

**FOR FURTHER INFORMATION CONTACT:** Frank Lockhart at 206–526–6142.

**SUPPLEMENTARY INFORMATION:** Among other things, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes development of Federal Fishery Management Plans (FMPs), and Federal regulation of domestic fisheries under those FMPs, within the 200–mile U.S. Exclusive Economic Zone (EEZ). 16 U.S.C. 1811, 1853. To assist the Secretary of Commerce (Secretary) in carrying out specific management and conservation duties, the Magnuson-Stevens Act created eight regional fishery management councils. Under the Magnuson-Stevens Act, an FMP and any amendments are usually originated by one of the eight regional fishery management councils, 16 U.S.C. 1852, and must then be approved by the Secretary of Commerce. 16 U.S.C. 1854.

### Essential Fish Habitat

The Magnuson-Stevens Act, originally enacted in 1976, has been amended several times. In 1996, the Sustainable Fisheries Act (SFA) amended the Magnuson-Stevens Act adding provisions aimed at halting overfishing and rebuilding overfished fisheries, reducing bycatch, and assessing and minimizing the impacts of management measures on fishing communities. Congress articulated in its findings that:

> one of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States. 16 U.S.C. 1801(a).

In making such findings, Congress declared one of the purposes of the Magnuson-Stevens Act to be the promotion of ''the protection of [EFH] in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.'' 16 U.S.C. 1802(b)(7). To ensure habitat considerations receive increased attention for the conservation and management of fishery resources, the amended Magnuson-Stevens Act required each existing, and any new, FMP to:

> describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 1855(b)(1)(A) of this title, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. 16 U.S.C. 1853(a)(7).

''EFH'' is defined in the Magnuson-Stevens Act as ''those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' 16 U.S.C. 1802(10).

The EFH regulations (50 CFR 600.815) establish additional guidance to the Councils on how to identify and describe EFH. The regulations indicate that Councils should:

> obtain information to describe and identify EFH from the best available sources, including peer reviewed literature, unpublished scientific reports, data files of government resource agencies, fisheries landing reports, and other sources of information.

The regulations identify four classification levels to organize available information relevant to EFH identifications and descriptions. Level 1 information is limited to species distributional data; level 2 information includes habitat-related densities; level 3 includes growth, reproduction or survival rates within habitats; and level 4 consists of production rates by habitat. Councils are encouraged to identify and describe EFH based on the highest level of detail (i.e., level 4). Readers are encouraged to see the EFH regulations (50 CFR 600.815, subpart J) for a complete description of each of these levels as well as guidance on how the Councils should analyze the available information. In determinating EFH, the regulations advise the Councils to interpret the available information in a ''risk-averse fashion to ensure adequate areas are identified as EFH for managed species.'' 50 CFR 600.815(a)(1)(iv)(A). For Pacific salmon, the Pacific Fishery Management Council (Pacific Council) obtained information at all four levels

for certain freshwater areas, and the first three levels of information for the estuaries; only the first level of information was available for marine areas.

**Amendment 14 to the Pacific Salmon Fishery Management Plan**

The Secretary approved the Salmon FMP under the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, in 1978. The Pacific Council has amended the Salmon FMP 14 times since 1978. For more information on the FMP process, refer to 16 U.S.C. 1651–1654.

The Pacific Council identified and described EFH for Pacific salmon in Amendment 14 to the Salmon FMP and submitted it on June 12, 2000, for Secretarial review. After a public comment period, NMFS approved Amendment 14 on September 27, 2000. The Pacific salmon EFH descriptions and identifications were not codified during the development of Amendment 14.

NMFS issues this proposed rule in response to a U.S. District Court of Idaho (Court) order (Case No. CV02–C-EJL, District Court of Idaho) directing NMFS to codify the EFH identifications and descriptions contained in the Salmon FMP. The Court determined that the EFH identifications and descriptions included in the amendment constitute a substantive rule under the Administrative Procedure Act (APA). The Court remanded, but did not vacate, the EFH identifications and descriptions contained in Amendment 14 to NMFS, and ordered NMFS to undertake notice and comment rulemaking to codify identified and described EFH for the Pacific salmon fishery.

The intent of this proposed rule is to codify, in compliance with the Court's order, the EFH identifications and descriptions for freshwater and marine habitats of Pacific salmon managed under the Salmon FMP for Chinook (*Oncorhynchus tshawytscha*), coho (*O. kisutch*), and pink (*O. gorbuscha*) salmon in Washington, Oregon, Idaho and California.

As new information becomes available, the Pacific Council will consider potential modifications to the identifications and descriptions of EFH. The Pacific Council is scheduled to review salmon EFH, pursuant to the review process schedule set up by both the Magnuson-Stevens Act and the EFH regulations at 50 CFR 600.815(a)(10). Upon completion of this 5–year review, the Pacific Council and NMFS may propose changes to the EFH descriptions depending on the level of new information and the effect that information has on the existing EFH identifications and descriptions.

This proposed rule does not contradict or make obsolete the information contained in appendix A of Amendment 14 to the Salmon FMP. Rather, this proposed rule summarizes key features of appendix A and would codify the EFH geographic extent descriptions for Pacific salmon. Appendix A contains important background and supplementary information on EFH, and can be found on the Council's website at *http://www.pcouncil.org/salmon/salfmp/a14.html*.

**Pacific Council Approach to EFH Identification**

The Pacific Council chose a comprehensive rather than a limiting approach in the Amendment 14 identification of salmon EFH for the following reasons, all of which made it very difficult to narrowly define EFH geographically. In the marine environment, Pacific salmon distribution is: (1) extensive; (2) varies seasonally and interannually; and (3) has not been extensively sampled in many ocean areas. In estuaries and freshwater, there is a high degree of natural variability in distribution of salmon species and habitat use (e.g., fluctuation in population abundance that can lead to a wider extent of habitat being used during high abundance years and a smaller extent of habitat being occupied during lower abundance years; varying levels of habitat quality; and interannual stream flow variation and water quality changes). For these reasons, the Pacific Council was not able to designate EFH based on fixed attributes of the streams (e.g., channel morphology (channel habitat type), streamflow, water quality, riparian condition, and temperature) because there may be areas of degraded habitat that may still be used by Pacific salmon and considered EFH.

The Pacific Council chose to adopt an inclusive, watershed-based description of EFH using United States Geological Survey (USGS) hydrologic units, because it recognizes the species' use of diverse habitats, considers the variability of freshwater habitat as affected by environmental conditions (droughts, floods, etc.), and reinforces important linkages between aquatic and adjacent upslope areas. A more detailed background on the Pacific Council's approach can be found in appendix A of Amendment 14 to the Salmon FMP.

**Consideration of Artificial Barriers**

In identifying the upstream extent of EFH, the Pacific Council considered artificial barriers and dams that affect Pacific salmon habitat. Numerous hydropower, water storage, and flood control systems have been built that either block access to areas historically accessible to Pacific salmon or alter the hydrology of downstream reaches. The Pacific Council therefore considered whether more than 50 large impassible barriers in Washington, Idaho, Oregon, and California should be designated as the upstream extent of EFH. These barriers are identified in Table 1 to part 660, subpart H. Should it become feasible for Pacific salmon to have access to or be reintroduced above the impassible dams, the FMP requires the Pacific Council to recommend identifying and describing the areas above the barriers as Pacific salmon EFH. The potential for expansion of EFH under these circumstances is addressed at 50 CFR 600.815(a)(1)(iv)(C) and (F).

**Pacific Salmon Biology**

The Magnuson-Stevens Act links EFH identifications and descriptions to life history stages, and the physiological, biological, and habitat parameters on which each life stage depends. To accomplish the task of linking these parameters in a meaningful way, the Pacific Council established tables and a narrative that present habitat requirements as they relate to fish life history stage and physiology. The four life history stages are eggs, larvae (alevins), juveniles, and adults. The biological needs include diet, substrate type, water quality, and others. These tables can be found in appendix A of Amendment 14 (Tables A–3, A–4, and A–5).

A brief overview of Pacific salmon life history and habitat requirements is provided below. This information is not intended to be a thorough review of Pacific salmon habitat requirements. Rather, it is intended to provide a sample of the information that supported the Pacific Council's EFH identifications and descriptions. See appendix A of Amendment 14 to the Salmon FMP for more detailed information on habitat use specific to life stage.

Chinook, coho, and pink salmon all have similar life history and habitat requirements; yet all three species have unique survival and reproductive strategies. They are anadromous, and by definition live the first part of their lives in freshwater and the adult part of their lives in marine waters before returning to spawn in freshwater.

For spawning and rearing, these salmon require clean, cold, well-oxygenated water with moderate

current. Spawning adults need medium to coarse gravel in which to deposit eggs. Eggs and alevins need well-oxygenated interstitial spaces with continuous water flow. This life stage is susceptible to poor water quality, predation, and physical impacts such as flooding or excessive siltation, which can smother the eggs.

At an age that varies among species, juvenile salmon migrate downstream towards the ocean. During this migration, the juvenile salmon require high water quality and protection from predation. Estuaries provide a mixing zone of saline and freshwater in which the young salmon can adapt to marine waters.

Pacific salmon use large portions of the north Pacific during ocean migration, although patterns vary between species and even between different populations of the same species. It is clear that ocean migration can be extensive. During the ocean phase, salmon are susceptible to predation, fishing mortality, and lack of food resources. The Pacific Council and NMFS considered excluding large portions of the EEZ from EFH designation. However, the best scientific information available was insufficient to support refinement. They chose, therefore, to identify and describe the entire EEZ as EFH for Pacific salmon. The Pacific Council adopted relatively broad EFH descriptions because of the wide ranging life history strategy, the number of species involved, and the limited information on marine distribution.

**EFH for Chinook, Coho, and Pink Salmon**

Table 1 to part 660, subpart H lists those hydrologic units which are identified as EFH for Chinook, coho, and pink salmon. Table 1 also includes, where appropriate, the names of impassible barriers that represent the upstream extent of Pacific salmon distribution.

To assist Federal agencies and the public, the following three figures depict those 4th field USGS Hydrologic Unit Codes (HUCs) that contain EFH for Pacific salmon. Figure 1 shows HUCs and marine waters that contain EFH for Chinook salmon in Washington, Oregon, California, and Idaho. Figure 2 shows HUCs and marine waters that contain EFH for coho salmon in Washington, Oregon, California, and Idaho. Figure 3 shows HUCs and marine waters that contain EFH for pink salmon in Washington.

Figure 1: Fourth field HUCs and adjacent EEZ with designated EFH for Chinook salmon in Washington, Oregon, California, and Idaho.

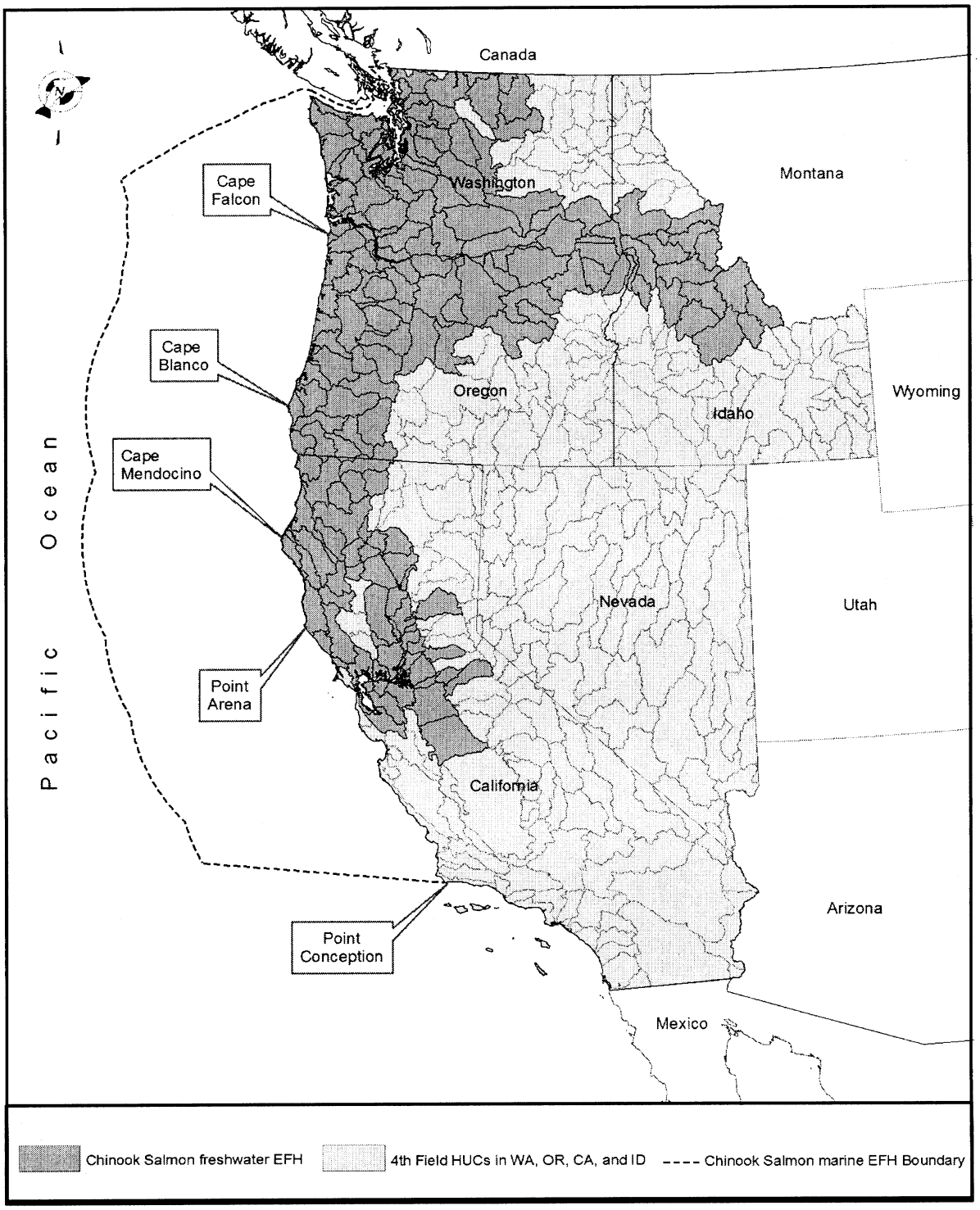


Figure 2: Fourth field HUCs and adjacent EEZ with designated EFH for coho salmon in Washington, Oregon, California, and Idaho.

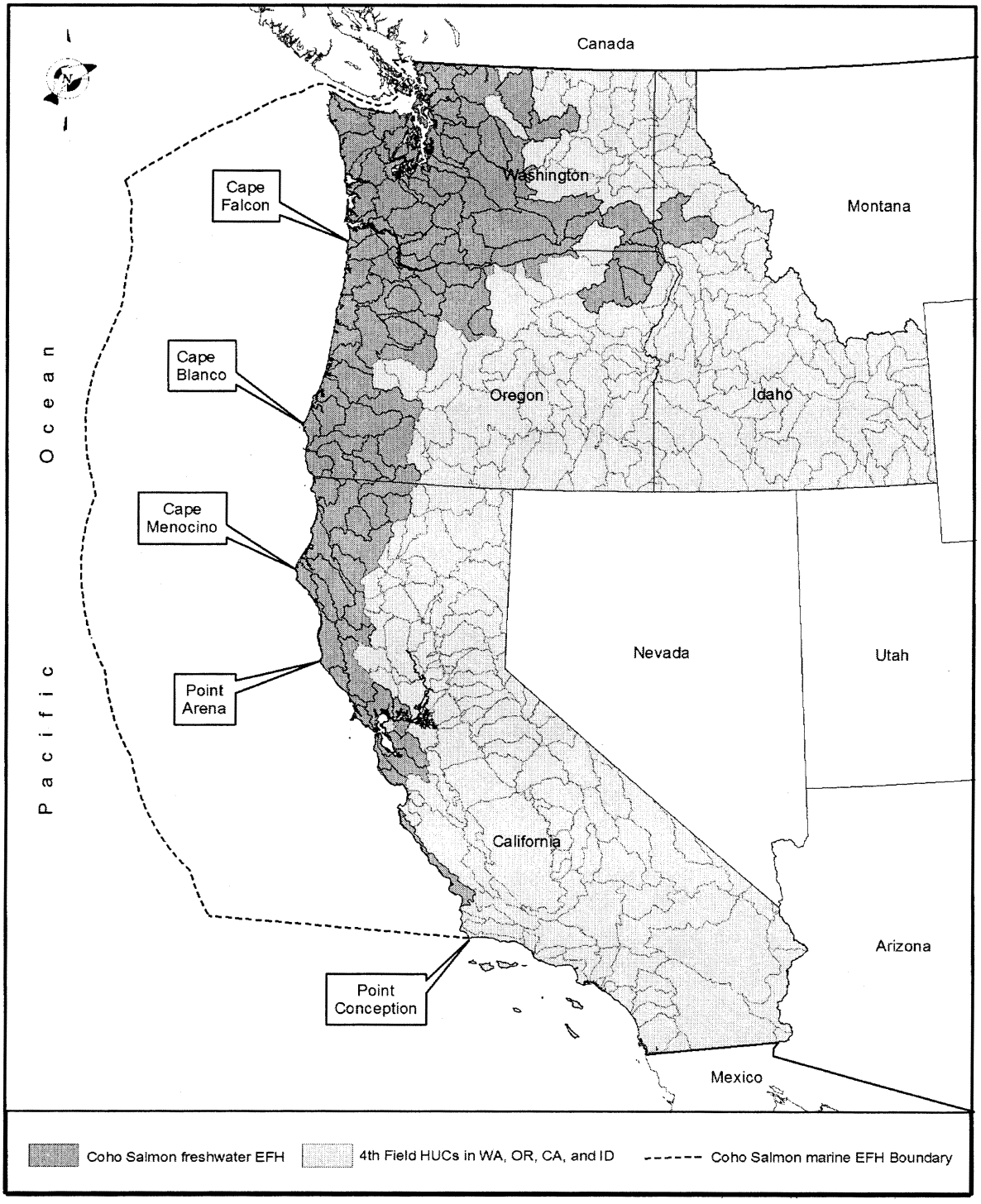
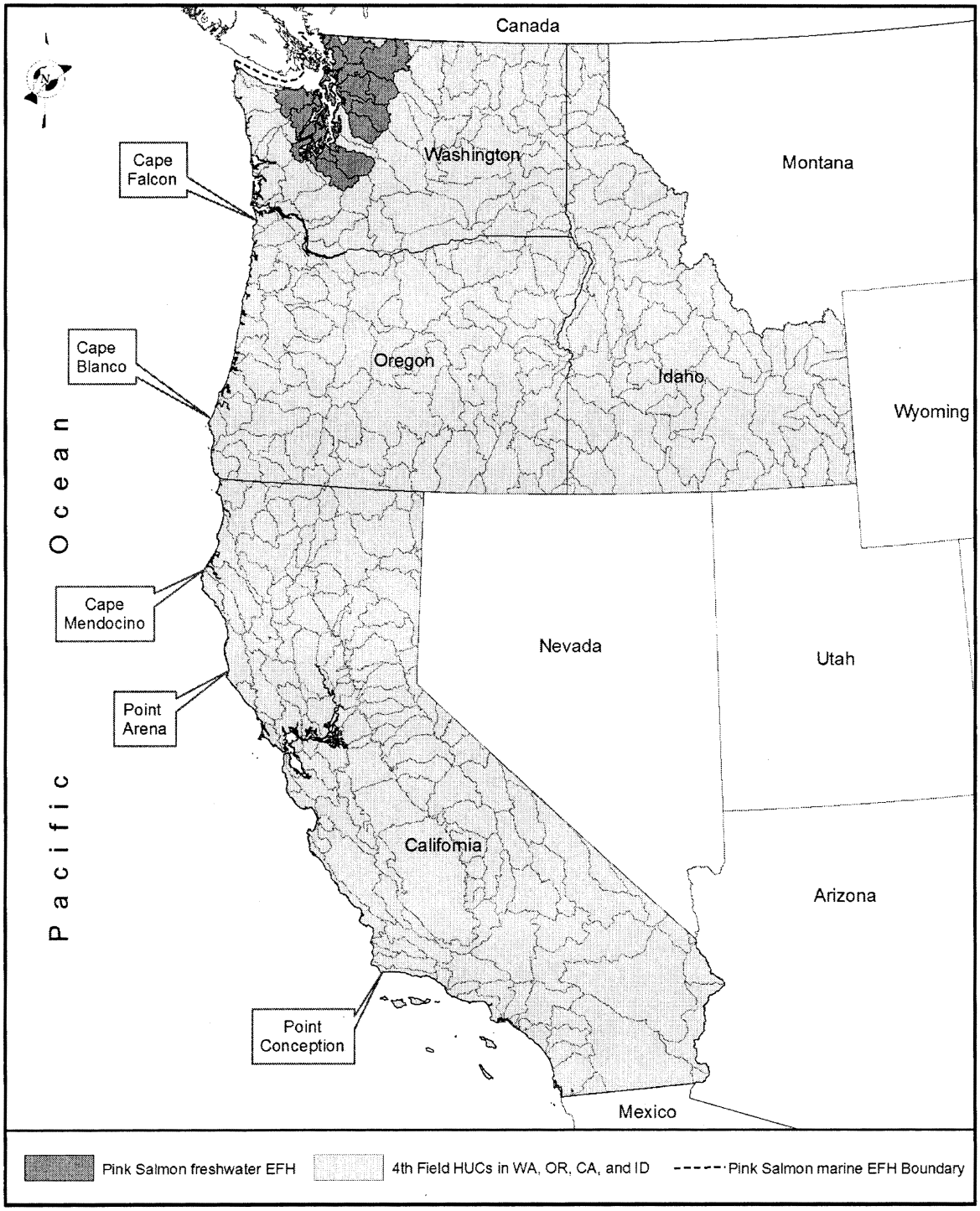


Figure 3: Fourth field HUCs and adjacent EEZ with designated EFH for pink salmon in Washington.




**EFH in Alaskan Marine Waters**

In identifying and describing EFH for Pacific salmon in Amendment 14, the Pacific Council included those areas that have been identified and described as marine EFH for Pacific salmon by the North Pacific Fishery Management Council (North Pacific Council). While the task of identifying and describing EFH in Alaskan waters is the responsibility of the North Pacific Council, the Pacific Council chose to include the reference to Alaskan EFH in Amendment 14 to the Salmon FMP in order to emphasize the relationship within the Pacific Coast ecosystem used by Pacific salmon during their adult migrations. This proposed rule, however, only codifies EFH for Pacific salmon that is within the jurisdiction of the Pacific Council, and does not codify EFH identified and described by the North Pacific Council for Pacific salmon

that is found in Alaskan waters under the North Pacific Council's jurisdiction.

**Effects of Identifying and Describing EFH**

Once EFH is identified and described, the Magnuson-Stevens Act requires that each FMP minimize to the extent practicable adverse effects to EFH. Adverse effects are broadly divided into effects from fishing and nonfishing activities. For impacts to EFH caused by fishing activities, each FMP must consider measures to minimize adverse effects on EFH, including EFH identified and described under other Federal FMPs. These measures may include equipment restrictions, time/area closures, or harvest limits.

In addition, the Magnuson-Stevens Act requires any Federal agency that determines that its action may adversely affect EFH to consult with NMFS. Section 305(b)(2) of the Magnuson-Stevens Act defines a Federal action as ''any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.'' The consultation process is fully described in the EFH regulations at 50 CFR 600.920. In order for NMFS to conduct this consultation the Federal action agency provides an EFH assessment commensurate with the complexity and magnitude of the potential adverse effects of the action.

After receiving a request for consultation and accompanying EFH assessment, NMFS must develop Conservation Recommendations for those actions that would adversely affect EFH, aimed at the need to avoid, minimize, mitigate, or offset adverse effects of the proposed action. NMFS must also provide Conservation Recommendations for those Federal and state actions that would adversely affect EFH in situations where consultation has not been requested. Upon receiving the recommended conservation measures, the Federal action agency must provide a detailed written response within 30 days, indicating the proposed measures to avoid or minimize adverse impacts on EFH. If the response is inconsistent with NMFS Conservation Recommendations, the Federal agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the action and the measures needed to avoid, minimize, mitigate, or offset such effects.

**Distinction Between EFH and Critical Habitat**

EFH responsibilities under the Magnuson-Stevens Act should not be confused with the mandate to designate critical habitat under the ESA. Congress enacted these two statutes with very different purposes in mind. One of the purposes of the Magnuson-Stevens Act is to promote domestic commercial and recreational fisheries. In amending the Magnuson-Stevens Act, Congress found that:

> [o]ne of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States. 16 U.S.C 1801(a)(9).

Under the Magnuson-Stevens Act, Congress established the mandate to identify and describe EFH in order to support the habitat needs of federally managed fish stocks to aid in ensuring long-term sustainable fisheries.

The definition of EFH within the Magnuson-Stevens Act, as well as the EFH implementing regulations (EFH Final Rule), establishes a basis for broader geographic areas to be identified and described as EFH, compared with those areas designated as critical habitat. The Magnuson-Stevens Act defines EFH as ''those areas necessary to fish for spawning, breeding, feeding, or growth to maturity.'' 16 U.S.C. 1802(10). The EFH Final Rule provides a mechanism for aiding the fishery management councils in determining the extent of EFH for the managed species. While the EFH Final Rule emphasizes that EFH should be distinguished from all habitats potentially used by the managed species, it also states that ''[a]reas described as EFH will normally be greater than or equal to aquatic areas that have been identified as 'critical habitat' for any managed species listed as threatened or endangered under the [ESA].'' 50 CFR 600.815(a)(1)(iv)(D). In addition, the EFH Final Rule provides the opportunity to increase the size of the area identified as EFH to include historic and/or degraded habitats where habitat loss may be contributing to reduced yield of the managed species.

In contrast, the ESA was enacted ''to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved'' and ''to provide a program for the conservation of such endangered species and threatened species.'' 16 U.S.C. 1531(b). The ESA specifically articulates that:

> the term 'critical habitat' for a threatened or endangered species means -
>
> 1. the specific areas within the geographic area occupied by the species at the time it is listed . . . on which are found those physical or biological features essential to the conservation of the species and . . . which may require special management considerations and protections; and
>
> 2. specific areas outside the geographic area occupied by the species at the time it is listed . . . upon a determination by the Secretary that such areas are essential for the conservation of the species. 16 U.S.C. 1532(5)(A).

The definition of critical habitat in the ESA also indicates that ''except in those situations determined by the Secretary, critical habitat shall not include the entire geographic area which can be occupied by the threatened or endangered species.'' 16 U.S.C. 1532(5)(C). While the ESA's implementing regulations regarding critical habitat set forth procedures for designating areas outside the current area occupied by the species, unlike EFH in the Magnuson-Stevens Act, the ESA regulations also allow the agency to exclude certain areas from critical habitat, or not designate at all, in certain situations.

When the geographic locations of EFH and critical habitat overlap, the individual consultation requirements under the ESA and the Magnuson-Stevens Act both apply. If a Federal agency determines that its action may adversely affect EFH and may affect critical habitat, it must consult with NMFS under the ESA and Magnuson-Stevens Act. In these circumstances, NMFS will generally merge the consultations into one response package, whenever possible, to maximize efficiency.

**Classification**

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*

The NMFS Northwest Region completed an ESA section 7 consultation on November 18, 1999, on the effects of Amendment 14 on listed salmon evolutionarily significant units. Amendment 14 does not by itself authorize any fishing or other activity that would result in adverse effects to listed fish or designated critical habitat. Based on this and other considerations, NMFS concluded that Amendment 14 and its implementing regulations are not likely to adversely affect listed salmon or their critical habitat. This proposed rule is consistent with the determination in Amendment 14 that the action does not jeopardize the continued existence of ESA listed salmon.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, as follows:

The objective of this rule is to codify essential fish habitat (EFH) descriptions and identifications that were previously approved by the Secretary of Commerce (Secretary)for Amendment 14 to the Pacific Salmon Fishery Management Plan. EFH descriptions and identifications are required under the Magnuson Fisheries Conservation and Management Act (16 U.S.C. 1802(b)(7). All vessels harvesting salmon from this fishery are considered small under the Small Business Act approved definition of a small fish harvester (average gross receipts not in excess of $4.0 million). Therefore, there can be no disproportionate impacts between small and large vessels. Furthermore, there are no disproportionate impacts based on homeport, gear type, or vessel size from the promulgation of this proposed rule. In 2004, there were 3,008 permits issued for this fishery, with a total exvessel value of $28,961,275. Of the 3,008 permits, only 910 actually landed salmon. There were 1508 vessel permits issued in California, 738 of which landed salmon, for an exvessel value of $17,883,216. There were 1,181 vessel permits issued in Oregon, 595 of which landed salmon, for an exvessel value of $9,893,065. There were 160 vessel permits issued in Washington, 86 of which landed salmon, for an exvessel value of $1,184,994. This rule would not result in any immediate impacts on revenues or costs for the small entities participating in the Pacific salmon fishery because it does not contain any new management measures that would have specific economic impact on the fishery. However, future rulemakings that are promulgated by NMFS on behalf of the Secretary may be based in part on the identification and description of the EFH and such actions would likely have specific measurable impacts on the small entities participating in the fishery.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared. NMFS will conduct the appropriate analyses for any subsequent rulemakings stemming from this proposed rule.

This proposed rule is not significant for the purposes of Executive Order 12866 (Supplemental Regulatory Impact Review to Amendment 14 to the Pacific Salmon Fishery Management Plan was prepared, see **ADDRESSES**).

**List of Subjects in 50 CFR Part 660**

Administrative practice and procedure, Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: April 12, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

## PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

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

2. Section 660.412 is added under subpart H to read as follows:

### § 660.412 EFH identifications and descriptions for Pacific salmon.

Pacific salmon essential fish habitat (EFH) includes all those water bodies occupied or historically accessible in Washington, Oregon, Idaho, and California in hydrologic units identified in Table 1 of this subpart. Exceptions include cases in which man-made barriers (dams) identified in Table 1 of this subpart represent the upstream extent of Pacific salmon access. EFH also includes the EEZ (from zero to 200 miles) off the coasts of California, Oregon, and Washington State.

(a) Chinook salmon (*Oncorhynchus tshawytscha*) EFH includes all streams, estuaries, marine waters, and other water bodies occupied or historically accessible to Chinook salmon in Washington, Oregon, Idaho, and California, in hydrologic units identified in Table 1 of this subpart. Exceptions include cases in which man-made barriers (dams) identified in Table 1 of this subpart represent the upstream extent of Pacific salmon access. EFH also includes the EEZ (from zero to 200 miles) off the coasts of Washington, Oregon, and California north of Point Conception.

(b) Coho salmon (*Oncorhynchus kisutch*) EFH includes all streams, estuaries, marine waters, and other water bodies occupied or historically accessible to coho in Washington, Oregon, Idaho, and California, in hydrologic units identified in Table 1 of this subpart. Exceptions include cases in which man-made barriers (dams) identified in Table 1 of this subpart represent the upstream extent of Pacific salmon access. EFH also includes the EEZ (from zero to 200 miles) off the coasts Washington, Oregon, and California north of Point Conception.

(c) Pink salmon (*Oncorhynchus gorbuscha*) EFH includes all streams, estuaries, marine waters, and other water bodies occupied or historically accessible to pink salmon within Washington State, in hydrologic units identified in Table 1 of this subpart. Exceptions include cases in which man-made barriers (dams) identified in Table 1 of this subpart represent the upstream extent of Pacific salmon access. EFH also includes waters north and east of Cape Flattery, Washington, including Puget Sound, the Strait of Juan de Fuca and the Strait of Georgia.

3. Table 1 to part 660, subpart H is added to read as follows:

TABLE 1 TO PART 660, SUBPART H—PACIFIC SALMON EFH IDENTIFIED BY USGS HYDROLOGIC UNIT CODE (HUC)

| USGS HUC[1] | State(s) | Hydrologic Unit Name | Salmon Species | Impassible Man-made Barrier (if present) |
|---|---|---|---|---|
| 17110001 | WA | Fraser (Whatcom) | Coho salmon | n/a |
| 17110002 | WA | Strait of Georgia | Chinook, coho, and pink salmon | n/a |
| 17110003 | WA | San Juan Islands | Chinook, coho, and pink salmon | n/a |
| 17110004 | WA | Nooksack River | Chinook, coho, and pink salmon | n/a |
| 17110005 | WA | Upper Skagit | Chinook, coho, and pink salmon | Gorge Lake Dam |

TABLE 1 TO PART 660, SUBPART H—PACIFIC SALMON EFH IDENTIFIED BY USGS HYDROLOGIC UNIT CODE (HUC)—Continued

| USGS HUC[1] | State(s) | Hydrologic Unit Name | Salmon Species | Impassible Man-made Barrier (if present) |
|---|---|---|---|---|
| 17110006 | WA | Sauk River | Chinook, coho, and pink salmon | n/a |
| 17110007 | WA | Lower Skagit River | Chinook, coho, and pink salmon | n/a |
| 17110008 | WA | Stillaguamish River | Chinook, coho, and pink salmon | n/a |
| 17110009 | WA | Skykomish River | Chinook, coho, and pink salmon | n/a |
| 17110010 | WA | Snoqualmie | Chinook, coho, and pink salmon | Tolt Dam (S. Fork Tolt R.) |
| 17110011 | WA | Snohomish River | Chinook, coho, and pink salmon | n/a |
| 17110012 | WA | Lake Washington | Chinook and coho salmon | Cedar Falls (Masonry) Dam (Cedar R.) |
| 17110013 | WA | Duwamish River | Chinook and coho salmon | n/a |
| 17110014 | WA | Puyallup River | Chinook, coho, and pink salmon | n/a |
| 17110015 | WA | Nisqually River | Chinook, coho, and pink salmon | n/a |
| 17110016 | WA | Deschutes River | Chinook and coho salmon | n/a |
| 17110017 | WA | Skokomish River | Chinook and coho salmon | n/a |
| 17110018 | WA | Hood Canal | Chinook, coho, and pink salmon | n/a |
| 17110019 | WA | Puget Sound | Chinook, coho, and pink salmon | n/a |
| 17110020 | WA | Dungeness - Elwha | Chinook, coho, and pink salmon | n/a |
| 17110021 | WA | Hoko - Crescent | Chinook and coho salmon | n/a |
| 17100101 | WA | Hoh Quillayute | Chinook and coho salmon | n/a |
| 17100102 | WA | Queets - Quinault | Chinook and coho salmon | n/a |
| 17100103 | WA | Upper Chehalis River | Chinook and coho salmon | n/a |
| 17100104 | WA | Lower Chehalis River | Chinook and coho salmon | n/a |
| 17100105 | WA | Grays Harbor | Chinook and coho salmon | n/a |
| 17100106 | WA | Willapa Bay | Chinook and coho salmon | n/a |
| 17080001 | OR/WA | Lower Columbia Sandy River | Chinook and coho salmon | Bull Run Project (Sandy R., Little Sandy R., Bull Run R.) |
| 17080002 | WA | Lewis River | Chinook and coho salmon | n/a |
| 17080003 | OR/WA | Lower Columbia - Clatskanie River | Chinook and coho salmon | n/a |
| 17080004 | WA | Upper Cowlitz River | Chinook and coho salmon | n/a |
| 17080005 | WA | Lower Cowlitz River | Chinook and coho salmon | n/a |
| 17080006 | OR/WA | Lower Columbia | Chinook and coho salmon | n/a |

TABLE 1 TO PART 660, SUBPART H—PACIFIC SALMON EFH IDENTIFIED BY USGS HYDROLOGIC UNIT CODE (HUC)—Continued

| USGS HUC[1] | State(s) | Hydrologic Unit Name | Salmon Species | Impassible Man-made Barrier (if present) |
|---|---|---|---|---|
| 17090001 | OR | Middle Fork Willamette River | Chinook salmon | Dexter Dam |
| 17090002 | OR | Coast Fork Willamette River | Chinook salmon | Dorena Dam |
| 17090003 | OR | Upper Willamette River | Chinook and coho salmon | n/a |
| 17090004 | OR | McKenzie River | Chinook and coho salmon | Cougar Dam |
| 17090005 | OR | N. Santiam River | Chinook and coho salmon | Big Cliff Dam |
| 17090006 | OR | S. Santiam River | Chinook and coho salmon | n/a |
| 17090007 | OR | Mid. Willamette River | Chinook and coho salmon | n/a |
| 17090008 | OR | Yamhill River | Chinook and coho salmon | n/a |
| 17090009 | OR | Molalla - Pudding River | Chinook and coho salmon | n/a |
| 17090010 | OR | Tualatin River | Chinook and coho salmon | n/a |
| 17090011 | OR | Clackamas River | Chinook and coho salmon | Oak Grove Dam |
| 17090012 | OR | Lower Willamette River | Chinook and coho salmon | n/a |
| 17070101 | OR/WA | Mid. Columbia - Lake Wallula | Chinook and coho salmon | n/a |
| 17070102 | OR/WA | Walla Walla River | Chinook salmon | n/a |
| 17070103 | OR | Umatilla River | Chinook salmon | n/a |
| 17070104 | OR | Willow | Chinook salmon | n/a |
| 17070105 | OR/WA | Mid. Columbia - Hood | Chinook and coho salmon | n/a |
| 17070106 | WA | Klickitat River | Chinook and coho salmon | n/a |
| 17070301 | OR | Upper Deschutes River | Chinook salmon | n/a |
| 17070305 | OR | Lower Crooked River | Chinook salmon | Opal Springs Dam |
| 17070306 | OR | Lower Deschutes River | Chinook and coho salmon | n/a |
| 17070307 | OR | Trout Creek | Chinook and coho salmon | n/a |
| 17070201 | OR | Upper John Day River | Chinook salmon | n/a |
| 17070202 | OR | North Fork John Day River | Chinook salmon | n/a |
| 17070203 | OR | Middle Fork John Day River | Chinook salmon | n/a |
| 17070204 | OR | Lower John Day River | Chinook salmon | n/a |
| 17030001 | WA | Upper Yakima River | Chinook and coho salmon | Keechelus Dam<br>Kachess Dam (Kachess R.)<br>Cle Elum Dam (Cle Elum R.) |
| 17030002 | WA | Naches River | Chinook and coho salmon | Rimrock Dam (Tieton R.) |
| 17030003 | WA | Lower Yakima River | Chinook and coho salmon | n/a |
| 17020005 | WA | Columbia River | Chinook and coho salmon | Chief Joseph Dam |
| 17020006 | WA | Okanogan River | Chinook salmon | n/a |
| 17020007 | WA | Similkameen | Chinook salmon | n/a |
| 17020008 | WA | Methow River | Chinook and coho salmon | n/a |

TABLE 1 TO PART 660, SUBPART H—PACIFIC SALMON EFH IDENTIFIED BY USGS HYDROLOGIC UNIT CODE (HUC)—Continued

| USGS HUC[1] | State(s) | Hydrologic Unit Name | Salmon Species | Impassible Man-made Barrier (if present) |
|---|---|---|---|---|
| 17020010 | WA | Upper Columbia - Entiat River | Chinook and coho salmon | n/a |
| 17020011 | WA | Wenatchee River | Chinook and coho salmon | n/a |
| 17020016 | WA | Upper Columbia - Priest Rapids | Chinook and coho salmon | n/a |
| 17060101 | OR/ID | Hells Canyon | Chinook salmon | Hells Canyon Complex (Hells Canyon, Oxbow, and Brownlee Dams) |
| 17060102 | OR | Imnaha River | Chinook salmon | n/a |
| 17060103 | OR/WA/ID | Lower Snake - Asotin Creek | Chinook and coho salmon | n/a |
| 17060104 | OR | Upper Grande Ronde | Chinook and coho salmon | n/a |
| 17060105 | OR | Wallowa River | Chinook and coho salmon | n/a |
| 17060106 | OR/WA | Lower Grande Ronde | Chinook and coho salmon | n/a |
| 17060107 | OR | Lower Snake - Tucannon River | Chinook and coho salmon | n/a |
| 17060110 | OR | Lower Snake River | Chinook and coho salmon | n/a |
| 17060201 | ID | Upper Salmon River | Chinook salmon | n/a |
| 17060202 | ID | Pahsimeroi River | Chinook salmon | n/a |
| 17060203 | ID | Mid. Salmon - Panther River | Chinook salmon | n/a |
| 17060204 | ID | Lemhi River | Chinook salmon | n/a |
| 17060205 | ID | Upper Middle Fork Salmon River | Chinook salmon | n/a |
| 17060206 | ID | Lower Middle Fork Salmon River | Chinook salmon | n/a |
| 17060207 | ID | Mid. Salmon - Chamberlain | Chinook salmon | n/a |
| 17060208 | ID | S.F. Salmon River | Chinook salmon | n/a |
| 17060209 | ID | Lower Salmon River | Chinook salmon | n/a |
| 17060210 | ID | Little Salmon River | Chinook salmon | n/a |
| 17060301 | ID | Upper Selway River | Chinook salmon | n/a |
| 17060302 | ID | Lower Selway River | Chinook salmon | n/a |
| 17060303 | ID | Lochsa River | Chinook salmon | n/a |
| 17060304 | ID | M.F. Clearwater River | Chinook salmon | n/a |
| 17060305 | ID | S.F. Clearwater River | Chinook salmon | n/a |
| 17060306 | WA/ID | Clearwater River | Chinook and coho salmon | Dworshak Dam (at border of HUCs 17060306 and 17060308) |
| 17100201 | OR | Necanicum River | Chinook and coho salmon | n/a |
| 17100202 | OR | Nehalem River | Chinook and coho salmon | n/a |
| 17100203 | OR | Wilson - Trask - Nestucca | Chinook and coho salmon | n/a |
| 17100204 | OR | Siletz Yaquina River | Chinook and coho salmon | n/a |

TABLE 1 TO PART 660, SUBPART H—PACIFIC SALMON EFH IDENTIFIED BY USGS HYDROLOGIC UNIT CODE (HUC)—Continued

| USGS HUC[1] | State(s) | Hydrologic Unit Name | Salmon Species | Impassible Man-made Barrier (if present) |
|---|---|---|---|---|
| 17100205 | OR | Alsea River | Chinook and coho salmon | n/a |
| 17100206 | OR | Siuslaw River | Chinook and coho salmon | n/a |
| 17100207 | OR | Siltcoos River | Chinook and coho salmon | n/a |
| 17100301 | OR | N. Umpqua River | Chinook and coho salmon | Soda Springs Dam |
| 17100302 | OR | S. Umpqua River | Chinook and coho salmon | n/a |
| 17100303 | OR | Umpqua River | Chinook and coho salmon | n/a |
| 17100304 | OR | Coos River | Chinook and coho salmon | n/a |
| 17100305 | OR | Coquille River | Chinook and coho salmon | n/a |
| 17100306 | OR | Sixes River | Chinook and coho salmon | n/a |
| 17100307 | OR | Upper Rogue River | Chinook and coho salmon | Lost Creek Dam |
| 17100308 | OR | Middle Rogue River | Chinook and coho salmon | n/a |
| 17100309 | CA/OR | Applegate River | Chinook and coho salmon | Applegate Dam |
| 17100310 | OR | Lower Rogue River | Chinook and coho salmon | n/a |
| 17100311 | CA/OR | Illinois River | Chinook and coho salmon | n/a |
| 17100312 | CA/OR | Chetco River | Chinook and coho salmon | n/a |
| 18010101 | CA/OR | Smith River | Chinook and coho salmon | n/a |
| 18010206 | CA/OR | Upper Klamath River | Chinook and coho salmon | Iron Gate Dam |
| 18010207 | CA | Shasta River | Chinook and coho salmon | n/a |
| 18010208 | CA | Scott River | Chinook and coho salmon | n/a |
| 18010209 | CA/OR | Lower Klamath River | Chinook and coho salmon | n/a |
| 18010210 | CA | Salmon River | Chinook and coho salmon | n/a |
| 18010211 | CA | Trinity River | Chinook and coho salmon | Lewiston Dam |
| 18010212 | CA | S.F. Trinity River | Chinook and coho salmon | n/a |
| 18010102 | CA | Mad Redwood | Chinook and coho salmon | Robert W. Matthews Dam |
| 18010103 | CA | Upper Eel River | Chinook and coho salmon | Scott Dam |
| 18010104 | CA | Middle Fork Eel River | Chinook and coho salmon | n/a |
| 18010105 | CA | Lower Eel River | Chinook and coho salmon | n/a |
| 18010106 | CA | South Fork Eel River | Chinook and coho salmon | n/a |
| 18010107 | CA | Mattole River | Chinook and coho salmon | n/a |
| 18010108 | CA | Big-Navarro-Garcia | Chinook and coho salmon | n/a |
| 18010109 | CA | Gualala - Salmon Creek | Chinook and coho salmon | n/a |
| 18010110 | CA | Russian River | Chinook and coho salmon | Coyote Valley Dam (E. Fork Russian R.)<br>Warm Springs Dam (Dry Cr.) |
| 18010111 | CA | Bodega Bay | Chinook and coho salmon | n/a |
| 18060001 | CA | San Lorenzo Soquel | Coho salmon | Newell Dam (Newell Cr.) |

TABLE 1 TO PART 660, SUBPART H—PACIFIC SALMON EFH IDENTIFIED BY USGS HYDROLOGIC UNIT CODE (HUC)—Continued

| USGS HUC[1] | State(s) | Hydrologic Unit Name | Salmon Species | Impassible Man-made Barrier (if present) |
|---|---|---|---|---|
| 18060006 | CA | Central Coastal | Coho salmon | n/a |
| 18050001 | CA | Suisun Bay | Chinook and coho salmon | n/a |
| 18050002 | CA | San Pablo Bay | Chinook and coho salmon | San Pablo Dam (San Pablo Cr.) |
| 18050003 | CA | Coyote Creek | Chinook and coho salmon | LeRoy Anderson Dam |
| 18050004 | CA | San Francisco Bay | Chinook and coho salmon | n/a |
| 18050005 | CA | Tomales-Drakes Bay | Coho salmon | Nicasio Dam (Nicasio Cr.)<br>Peters Dam (Lagunitas Cr.) |
| 18050006 | CA | San Francisco-Coastal South | Coho salmon | n/a |
| 18020101 | CA | Sac.-Lower Cow-Lower Clear | Chinook salmon | n/a |
| 18020102 | CA | Lower Cottonwood Creek | Chinook salmon | n/a |
| 18020103 | CA | Sacramento - Lower Thomes | Chinook salmon | n/a |
| 18020104 | CA | Sacramento - Stone Corral | Chinook salmon | n/a |
| 18020105 | CA | Lower Butte Creek | Chinook salmon | n/a |
| 18020106 | CA | Lower Feather River | Chinook salmon | n/a |
| 18020107 | CA | Lower Yuba River | Chinook salmon | n/a |
| 18020108 | CA | Lower Bear River | Chinook salmon | n/a |
| 18020109 | CA | Lower Sacramento River | Chinook salmon | n/a |
| 18020110 | CA | Lower Cache | Chinook salmon | n/a |
| 18020111 | CA | Lower American River | Chinook salmon | Nimbus Dam |
| 18020112 | CA | Sacramento-Upper Clear | Chinook salmon | Keswick Dam (Sacramento R.)<br>Whiskeytown Dam (Clear Cr.) |
| 18020113 | CA | Cottonwood Headwaters | Chinook salmon | n/a |
| 18020114 | CA | Elder Creek | Chinook salmon | n/a |
| p | CA | River | Chinook salmon | n/a |
| 18020118 | CA | Upper Cow - Battle Creek | Chinook salmon | n/a |
| 18020119 | CA | Mill - Big Chico | Chinook salmon | n/a |
| 18020120 | CA | Upper Butte Creek | Chinook salmon | n/a |
| 18020125 | CA | Upper Yuba | Chinook salmon | n/a |
| 18040001 | CA | Mid. San Joaquin- L. Cowchilla | Chinook salmon | n/a |
| 18040002 | CA | Mid. San Joaquin- L. Merced- L. Stanislaus | Chinook salmon | La Grange Dam (Tuolumne R.) |
| 18040003 | CA | San Joaquin Delta | Chinook salmon | n/a |
| 18040004 | CA | L. Calaveras - Mormon Slough | Chinook salmon | n/a |

TABLE 1 TO PART 660, SUBPART H—PACIFIC SALMON EFH IDENTIFIED BY USGS HYDROLOGIC UNIT CODE (HUC)—Continued

| USGS HUC[1] | State(s) | Hydrologic Unit Name | Salmon Species | Impassible Man-made Barrier (if present) |
|---|---|---|---|---|
| 18040005 | CA | L. Consumnes- L. Mokelumne | Chinook salmon | Comanche Dam |
| 18040010 | CA | Upper Stanislaus | Chinook salmon | Goodwin Dam |
| 18040011 | CA | Upper Calveras | Chinook salmon | New Hogan Dam |
| 18040013 | CA | Upper Cosumnes | Chinook salmon | n/a |

1. To clearly identify watersheds that contain EFH, NMFS uses fourth field hydrologic unit codes (HUCs) developed by the U.S. Geological Survey (USGS) (defined in the Department of the Interior, USGS publication; Hydrologic Unit Maps, Water Supply Paper 2294, 1987). The geographic extent of HUCs range from first field (largest geographic extent) to sixth field (smallest geographic extent). Fourth field HUCs divide the landscape into distinct geographic areas that are identified by eight numbers unique to that hydrologic unit.

[FR Doc. 07–1946 Filed 4–19–07; 8:45 am]

BILLING CODE 3510–22–S

# Notices

Federal Register
Vol. 72, No. 76
Friday, April 20, 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

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2007–0027]**

### ArborGen, LLC; Availability of an Environmental Assessment for Controlled Release of Genetically Engineered Eucalyptus Hybrids

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment for a proposed controlled field release of genetically engineered clones of *Eucalyptus* hybrids. The purpose of this release is to continue research on two constructs that confer cold-tolerance from a previously approved notification and test the efficacy of a third, claimed as confidential business information. We are making the environmental assessment available to the public for review and comment.

**DATES:** We will consider all comments received on or before May 21, 2007.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, and then click ''Submit.'' In the Docket ID column, select APHIS–2007–0027 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instruction for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0027, Regulatory Analysis and Development, PPD APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0027.

*Reading Room:* You may read the environmental assessment (EA) and any comments we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming. The EA is available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/06_325111r_ea.pdf.*

*Other Information:* Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Levis Handley, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5721. To obtain copies of the environmental assessment, contact Ms. Cynthia Eck at (301) 734–0667; e-mail: *cynthia.a.eck@aphis.usda.gov.*

**SUPPLEMENTARY INFORMATION:** The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.'' A permit must be obtained or a notification acknowledged before a regulated article may be introduced. The regulations set forth the permit application requirements and the notification procedures for the importation, interstate movement, or release in the environment of a regulated article.

On November 21, 2006, the Animal and Plant Health Inspection Service (APHIS) received a permit application (APHIS No. 06–325–111r) from ArborGen, LLC, in Summerville, SC, for a controlled field release of genetically engineered *Eucalyptus* hybrids. Under this permit, trees planted under a previously approved notification (05–256–03n) would be allowed to flower.

Permit application 06–325–111r describes *Eucalyptus* trees engineered with three constructs. Two of these constructs are intended to confer cold tolerance and the third genetic construct is claimed as confidential business information (CBI). In addition, the trees have been engineered with a selectable marker gene, also claimed as CBI. These DNA sequences were introduced into *Eucalyptus* trees using disarmed *Agrobacterium tumefaciens.* The subject *Eucalyptus* trees are considered regulated articles under the regulations in 7 CFR part 340 because they were created using donor sequences from plant pests.

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts and plant pest risks associated with the proposed release of these *Eucalyptus* trees, an environmental assessment (EA) has been prepared. The EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The EA may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this notice.) In addition, copies may be obtained by calling or writing to the individuals listed under **FOR FURTHER INFORMATION CONTACT**.

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 18th day of April 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E7–7637 Filed 4–19–07; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Notice of New Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

**AGENCY:** Bridger-Teton National Forest, USDA Forest Service.

**ACTION:** Notice of new fee site.

**SUMMARY:** The Bridger-Teton National Forest is planning to charge an $80 fee for the overnight rental of Green River Lakes Lodge. This facility has not been available for recreation use prior to this date. Rentals of other historic guard stations on the Bridger-Teton National Forest have shown that people appreciate and enjoy the availability of historic rental cabins. Funds from the rental will be used for the continued operation and maintenance of Green River Lakes Lodge.

**DATES:** Green River Lakes Lodge will become available for recreation rental October 2007.

**ADDRESSES:** Forest Supervisor, Bridger-Teton National Forest, P.O. Box 1888/340 N. Cache, Jackson, WY 83001.

**FOR FURTHER INFORMATION CONTACT:** Cindy Stein, Natural Resources Specialist, 307–367–5717.

**SUPPLEMENTARY INFORMATION:** The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. This new fee will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

The Bridger-Teton National Forest currently has numerous other cabin rentals. These rentals are often fully booked throughout their rental season. A business analysis of the Green River Lakes Lodge has shown that people desire having this sort of recreation experience on the Bridger-Teton National Forest. A market analysis indicates that the $80/per night fee is both reasonable and acceptable for this sort of unique recreation experience.

People wanting to rent Green River Lakes Lodge will need to do so through the National Recreation Reservation Service, at *http://www.reserveusa.com* or by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee for reservations.

Dated: April 12, 2007.

**Kniffy Hamilton,**

*Bridger-Teton National Forest Supervisor.*

[FR Doc. 07–1971 Filed 4–19–07; 8:45 am]

**BILLING CODE 3410–11–M**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and Deletions from Procurement List.

**SUMMARY:** This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products and services previously furnished by such agencies.

**EFFECTIVE DATE:** May 20, 2007.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Additions

On February 2 and February 9, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 FR 5001, 6198) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

#### End of Certification

Accordingly, the following services are added to the Procurement List:

*Services*

*Service Type/Location:* Full Food Service, Ft. Indiantown Gap (USPFO of PA), Annville, PA.
*NPA:* Opportunity Center, Incorporated, Wilmington, DE.
*Contracting Activity:* Pennsylvania Army National Guard Bureau, Annville, PA.
*Service Type/Location:* Mailroom Operation, Food and Drug Administration, (White Oak including College Park Drops), 10903 New Hampshire Ave, Silver Spring, MD.
*NPA:* Sheltered Occupational Center of Northern Virginia, Inc., Arlington, VA.
*Contracting Activity:* Food and Drug Administration, Rockville, MD.

#### Deletions

On February 23, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 8149) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and

services deleted from the Procurement List.

*End of Certification*

Accordingly, the following products and services are deleted from the Procurement List:

*Products*

Bookcase
NSN: 7110–01–148–2414—Bookcase
NSN: 7110–01–276–3627—Bookcase
Cabinet, Telephone
NSN: 7110–01–148–2421—Cabinet, Telephone
Credenza
NSN: 7110–01–148–2419—Credenza
NSN: 7110–01–276–3628—Credenza
NSN: 7110–01–276–3629—Credenza
Desk
NSN: 7110–01–148–2410—Desk
NSN: 7110–01–148–2411—Desk
NSN: 7110–01–170–3594—Desk
NSN: 7110–01–170–3595—Desk
NSN: 7110–01–170–3596—Desk
NSN: 7110–01–170–3597—Desk
NSN: 7110–01–170–3598—Desk
NSN: 7110–01–170–7582—Desk
Storage Unit, Overhead
NSN: 7110–01–276–3625—Storage Unit, Overhead
Table, Printer
NSN: 7110–01–226–1707—Table, Printer
NPA: UNKNOWN
Contracting Activity: GSA, National Furniture Center, Arlington, VA
Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9810—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9811—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9812—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9813—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9817—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9818—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9833—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9834—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9842—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9843—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–491–9845—Clock, Atomic, Standard, Thermometer
NSN: 6645–01–492–0379—Clock, Atomic, Standard, Thermometer
NPA: The Chicago Lighthouse for People Who are Blind or Visually Impaired, Chicago, IL.
Contracting Activity: Office Supplies & Paper Products Acquisition Ctr, New York, NY.
Harness, Safety Shoulder
NSN: 2540–00–432–1343—Harness, Safety Shoulder.
*NPA:* Huntsville Rehabilitation Foundation, Huntsville, AL.
*Contracting Activity:* Defense Supply Center Columbus, Columbus, OH.

*Services*

*Service Type/Location:* Grounds Maintenance, U.S. Army Reserve Center (Lawton), 900 Cache Road, Lawton, OK.
*Service Type/Location:* Janitorial/Custodial, U.S. Army Reserve Center (Lawton), 900 Cache Road, Lawton, OK.
*NPA:* Goodwill Industries of Southwest Oklahoma, Inc., Lawton, OK.
*Contracting Activity:* 90th Regional Support Command, North Little Rock, AR.
*Service Type/Location:* Janitorial/Custodial, 926th Fighter Wing (Only), Naval Air Station Joint Reserve Base, New Orleans, LA.
*NPA:* Goodworks, Inc., New Orleans, LA.
*Contracting Activity:* 301st Operational Contracting, Ft. Worth, TX.

**Patrick Rowe,**

*Deputy Executive Director.*

[FR Doc. E7–7524 Filed 4–19–07; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to Procurement List.

**SUMMARY:** The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

*Comments Must Be Received On Or Before:* May 20, 2007.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

### End of Certification

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

*Products*

Cap, Utility, Camouflage Pattern, Air Force, BDU:
NSN: 8415–01–536–4140—Size 6½;
NSN: 8415–01–536–4144—Size 6⅜;
NSN: 8415–01–536–4148—Size 6⅝;
NSN: 8415–01–536–4152—Size 6¾;
NSN: 8415–01–536–4181—Size 6⅞;
NSN: 8415–01–536–4183—Size 7;
NSN: 8415–01–536–4185—Size 7⅛;
NSN: 8415–01–536–4212—Size 7¼;
NSN: 8415–01–536–4218—Size 7⅜;
NSN: 8415–01–536–4221—Size 7½;
NSN: 8415–01–536–4223—Size 7⅝;
NSN: 8415–01–536–4226—Size 7¾;
NSN: 8415–01–536–4229—Size 7⅞;
NSN: 8415–01–536–4233—Size 8;
NSN: 8415–01–536–4236—Size 8⅛;
NSN: 8415–01–536–4240—Size 8¼;
NSN: 8415–01–536–4245—Size 8⅜;
NSN: 8415–01–536–4248—Size 8½.
NPA: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.
Coverage: C–List—The requirement being proposed to the Procurement List is an additional 25% of the Defense Supply Center Philadelphia, Philadelphia, PA requirement.
Clamp, Loop:
NSN: 5340–01–527–6885.
NPA: Provail, Seattle, WA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.
Latex Disposable Gloves:
NSN: M.R. 553.
Nitrile Disposable Gloves:
NSN: M.R. 552.
NPA: New York City Industries for the Blind, Inc., Brooklyn, NY.
Contracting Activity: Defense Commissary

Agency, Fort Lee, VA.

**Patrick Rowe,**

*Deputy Executive Director.*

[FR Doc. E7–7525 Filed 4–19–07; 8:45 am]

**BILLING CODE 6353–01–P**

## DEPARTMENT OF COMMERCE

### Bureau of the Census

**[Docket Number 0612243149–63149–01]**

**RIN 0607–AA42**

### 2010 Census Redistricting Data Program Commencement of Phase 2: The Voting District/Block Boundary Suggestion Project

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Notice of program.

**SUMMARY:** This notice announces the commencement of Phase 2 of the 2010 Census Redistricting Data Program: The Voting District/Block Boundary Suggestion Project. This second phase specifically provides States the opportunity to submit their voting districts (election precincts, wards, etc.) to the Bureau of the Census (Census Bureau) for the development of data products by voting district in the Phase 3 release of the 2010 Census Redistricting Data. In addition to providing the Census Bureau with their voting districts, States may opt to provide the Census Bureau with their suggestions for the 2010 Census tabulation block inventory. States may choose to participate in one or both options during Phase 2. Participation in Phase 2 is voluntary.

**DATES:** Comments on this notice must be received by May 21, 2007. The deadline for States to notify the Census Bureau that they wish to participate in the Phase 2: Voting District/Block Boundary Suggestion Project is December 15, 2007.

**ADDRESSES:** Please direct all written comments on this notice to the Director, U.S. Census Bureau, Room 8H001, mail stop 0100, Washington, DC 20233–0001.

**FOR FURTHER INFORMATION CONTACT:** Catherine C. McCully, Chief of the Census Redistricting Data Office, U.S. Census Bureau, Room 8H019, Washington, DC 20233, telephone (301) 763–4039.

**SUPPLEMENTARY INFORMATION:** Under the provisions of Public Law 94–171 (Title 13, United States Code (U.S.C.), Section 141(c)), the Director of the Census Bureau is required to provide the ''officers or public bodies with initial responsibility for legislative apportionment or districting of each State * * * '' with the opportunity to specify geographic areas (for example, voting districts, wards, and election precincts) for which they wish to receive decennial census population totals for the purpose of reapportionment and redistricting.

By April 1 of the year following the decennial census, the Secretary is required to furnish the State officials or their designees with population counts for counties, cities, census blocks, and State-specified congressional districts, legislative districts, and voting districts.

In accordance with the provisions of Title 13, U.S.C. Section 141(c), and on behalf of the Secretary of Commerce, the Director announces the commencement of Phase 2 of the 2010 Census Redistricting Data Program. The purpose of this notice is to provide further information on the commencement of the 2010 Census Redistricting Data Program, Phase 2Voting District/Block Boundary Suggestion Project. Future notices will address the remaining phases of this 2010 Program.

The 2010 Census Redistricting Data Program [1] was initially announced on May 13, 2004, in the **Federal Register** (69 FR 26547). This notice described the program that the Census Bureau proposed to adopt for the 2010 Census. In addition, Phase 1 of the 2010 Census Redistricting Data Program was initially announced in a second **Federal Register** notice on February 15, 2005 (70 FR 7713). This notice described the procedures to be followed under Phase 1 for States to submit their legislative districts (House and Senate) to the Census Bureau for the development of data products by legislative district. For additional background information on these notices, please consult the **Federal Register** issues referenced above. Phase 1 was concluded on January 4, 2007, with the release of data re-tabulated from Census 2000 SF–1 (100% data) and SF–3 (sample data) for State legislative districts nationwide (50 States, the District of Columbia, and the Commonwealth of Puerto Rico).

Beginning in the summer of 2007 and by separate letter, the Director of the Census Bureau will invite each State to participate in Phase 2, the Voting District/Block Boundary Suggestion Project. This phase will include a verification step prior to release of the Phase 3 data. For each State responding by December 15, 2007 that it wishes to participate in Phase 2, the Census Bureau will provide one county of data for that State from the MAF/TIGER Database and a copy of the MAF/TIGER Partnership Software (MTPS) to enable the State to begin work on Phase 2. States are not required to use the MTPS; however, they are required to provide their Phase 2 submission to the Census Bureau electronically in Census Bureau specified formats. During this time, the Census Bureau will provide training in the use of the MTPS and assist the States in preparing for the remaining counties within each State, scheduled for later in the fall of 2008. The States will have the opportunity to verify the inclusion of their voting districts and suggested tabulation block boundary features during 2009 and early 2010, to ensure the voting district boundaries that will be used by the Census Bureau are consistent with their submissions.

The Census Bureau will continue to communicate with each State to ensure that the States are well informed on the benefits of working with the Census Bureau towards a successful 2010 Census. In addition, the Redistricting Data Office will continue to work with each State to ensure it is prepared to participate in Phase 2 and Phase 3: Delivery of the Decennial 2010 Census Redistricting Data. Every State, regardless of its participation in Phase 2, will receive the official redistricting data sets, as required by Pub. L. 94–171.

**Executive Order 12866**

This notice has been determined to be not significant under Executive Order 12866.

Dated: April 17, 2007.

**Charles Louis Kincannon,**

*Director, Bureau of the Census.*

[FR Doc. E7–7532 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–07–P**

[1] As in the 1990 and 2000 censuses, the 2010 Census Redistricting Data Program is being partitioned into several phases. State participation in Phases 1 and 2 of the 2010 Redistricting Data Program under 13 U.S.C. 141 is voluntary.

## DEPARTMENT OF COMMERCE

### Foreign–Trade Zones Board

**Order No. 1509**

### Expansion of Foreign–Trade Zone 123, Denver, Colorado, Area

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the City and County of Denver, grantee of Foreign–Trade Zone 123, submitted an application to the Board for authority to expand FTZ 123 to include a site (766 acres) at the Great Western Industrial Park (Site 3) in the Windsor, Colorado, area, adjacent to the

Denver Customs and Border Protection port of entry (FTZ Docket 28–2006; filed 7/12/06);

*Whereas*, notice inviting public comment was given in the **Federal Register** (71 FR 39296, 7/12/06), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

*Now, therefore*, the Board hereby orders:

The application to expand FTZ 123 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 10th day of April 2007.

**David M. Spooner,**

*Assistant Secretary of Commercefor Import Administration, Alternate Chairman, Foreign–Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. E7–7595 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### Foreign–Trade Zones Board

**Order No. 1510**

### Approval for Expansion of Subzone 208A, and of Expanded Manufacturing Authority, Pfizer Inc (Pharmaceutical Products), Groton, Connecticut

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the New London Foreign Trade Zone Commission, grantee of FTZ 208, has requested authority on behalf of Pfizer Inc (Pfizer) to expand the subzone and scope of manufacturing authority at Subzone 208A at the Pfizer pharmaceutical manufacturing plant in Groton, Connecticut (FTZ Docket 31–2006, filed 7/20/06);

*Whereas*, notice inviting public comment has been given in the **Federal Register** (71 FR 43107, 7/31/06); and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

*Now, therefore*, the Board hereby approves the expansion of the subzone and the scope of authority under zone procedures within Subzone 208A for the manufacture of pharmaceutical products at the Pfizer Inc plant located in Groton, Connecticut, as described in the application and the **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 10th day of April 2007.

**David M. Spooner,**

*Assistant Secretary of CommerceFor Import Administration, Alternate Chairman, Foreign–Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. E7–7596 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**A–201–805**

### Certain Circular Welded Non–Alloy Steel Pipe and Tube from Mexico: Notice of Preliminary Intent to Rescind Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to a request from Conduit S.A. de C.V. (Conduit), a Mexican producer of certain circular welded non–alloy steel pipe and tube (pipe and tube), the Department of Commerce (the Department) initiated a new shipper review of the antidumping duty order on pipe and tube from Mexico. The period of review covers November 1, 2005, through April 30, 2006. Based on our findings at verification, the Department preliminarily determines that the merchandise Conduit sold and entered into the United States was not subject merchandise. Because the respondent has consequently made no sales or shipments of the subject merchandise to the United States during the period of review, we preliminarily intend to rescind this new shipper review.

**EFFECTIVE DATE:** April 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Patrick Edwards, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–8029, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Department published an antidumping duty order on pipe and tube from Mexico on November 2, 1992. *See Notice of Antidumping Duty Order: Circular Welded Non–Alloy Steel Pipe from Mexico*, 57 FR 49453 (November 2, 1992). On May 26, 2006, the Department received a timely request from Conduit, in accordance with 19 CFR § 351.214(c), to initiate a new shipper review of the antidumping duty order on pipe and tube from Mexico. Pursuant to 19 CFR § 351.214(b), Conduit certified that it is both the exporter and producer of the subject merchandise, that it did not export subject merchandise to the United States during the period of the investigation, and that since the investigation was initiated, it has never been affiliated with any exporter or producer who exported the subject merchandise to the United States. Conduit also submitted documentation establishing the date on which the shipment that was the basis for this new shipper review was first entered for consumption, the volume shipped, and the date of its first sale to an unaffiliated customer in the United States.

The Department published the initiation of the new shipper review of the antidumping duty order on pipe and tube from Mexico on July 10, 2006. *See Circular Welded Non–Alloy Steel Pipe and Tube from Mexico: Initiation of New Shipper Antidumping Duty Review*, 71 FR 38851 (July 10, 2006).

#### Scope of the Order

The merchandise under review is circular welded non–alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low–pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A–53 specifications. Standard pipe may also be used for light load–bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load–bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related

industries. Unfinished conduit pipe is also included in these orders. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in these orders.

Imports of the products covered by these orders are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

**Preliminary Intent to Rescind New Shipper Review**

The Department may rescind a new shipper review with respect to an exporter or producer if the Department concludes that there were no entries, exports, or sales of the subject merchandise to the United States during the period of review. *See* 19 CFR § 351.214(f)(2). In response to the Department's questionnaire, Conduit provided full and complete responses attesting to their qualification as a new shipper under the Department's regulations, and established that a completed transaction (a sale and entry) of subject merchandise pipe and tube was sold to an unaffiliated customer in the United States.

The Department conducted its verification of Conduit's responses in Mexico City from February 28, 2007, through March 2, 2007. The purpose of the Department's verification was to verify Conduit's one reported sale; however, during the verification, Conduit presented additional documentation of an unreported sale. Further examination of Conduit's quality certificates, production run data and additional sales documentation not presented to the Department during the questionnaire response period confirmed that the merchandise sold in the unreported sale was identical to the merchandise sold in the reported sale that is subject to this new shipper review. *See* Memorandum to the File from John Drury and Patrick Edwards, Analysts, through Angelica Mendoza, Program Manager regarding Verification of Sales Response of Conduit S.A. de C.V. in the Antidumping New Shipper Review of Certain Circular Welded Non–Alloy Steel Pipe and Tube from Mexico, dated March 23, 2007, on file in the Central Records Unit, room B–099 of the main Commerce building.

Additionally, the documentation examined by the Department concerning the unreported sale, which was made in November 2005, indicated that the merchandise was of a type of tubing made to the American Society for Testing and Materials (ASTM) standard of A–513, which is a mechanical tubing specification. The Department examined production documentation and quality certificates for the sale, confirming that, given its chemical composition and wall thickness, the pipe was indeed in conformance with the ASTM A–513 standard and not the product subject to this Order.

Previous rulings on the scope of the Order prescribe that pipe produced to the A–513 standard, or generally ''mechanical tubing,'' is specifically excluded from the scope of the antidumping duty order on pipe and tube from Mexico. *See* section on ''Scope of the Order'' above. *See also*, Third Determination on Remand, *In the matter of: Final Scope Ruling – Antidumping Duty Order on Circular Welded Non–Alloy Steel Pipe from Mexico*, Secretariat File No. USA–MEX__1998–1904–05 (February 19, 2004) (*NAFTA Scope Decision*). In its submission to the panel, during the *NAFTA Scope Decision* proceeding, the Department explained that, '' while mechanical tubing can comply with basic description of the pipe subject to this order, its removal from the order is based on its recognition by purchasers and producers as a specialized, made–to-order product. This denotes a product possessing unique chemical, physical, and mechanical characteristics, most notably the physical characteristics. It is a custom made, unique size product that is made to order, thereby differentiating it from the 'standard sizes' of pipe and fence tubing covered by the order. Non–standard pipe sizes generally would be considered to be outside the scope of the order the Department reiterates that mechanical tubing is outside of the scope of the Order.'' The Panel affirmed this finding by the Department on June 7, 2004.

Therefore, since this product possesses unique physical characteristics that do not comply with the products subject to this order, and based on the *NAFTA Scope Decision*, the Department preliminarily determines that there is no sale or entry of subject merchandise to examine, as prescribed under 19 CFR § 351.214(f)(2) of the Department's regulations. Accordingly, the Department preliminarily intends to rescind this new shipper review.

**Public Comment**

Interested parties may submit case briefs no later than 15 days after the date of publication of this notice of intent to rescind. *See* 19 CFR § 351.309(c)(ii). Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing the case briefs. *See* 19 CFR § 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. An interested party may request a hearing within 15 days of publication of this notice of intent to rescind. *See* 19 CFR § 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission rebuttal briefs, or the first working day thereafter. *See* 19 CFR § 351.310(d)(1). The Department will issue the final notice, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of this notice of intent to rescind.

This notice is issued and published in accordance with sections 751(a)(2) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: April 13, 2007.

**David M. Spooner,**

*Assistant Secretaryfor Import Administration.*

[FR Doc. E7–7597 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**C–122–815**

### Pure Magnesium and Alloy Magnesium from Canada: Preliminary Results of Countervailing Duty Administrative Reviews

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce is conducting administrative reviews of the countervailing duty orders on pure magnesium and alloy magnesium from Canada for the period January 1, 2005,

through August 15, 2005. We preliminarily find that the countervailing duty rates during the period of review for the producer/exporter covered by these reviews is zero. If the final results remain the same as these preliminary results, we will instruct U.S. Customs and Border Protection to assess countervailing duties as detailed in the ''Preliminary Results of Reviews'' section of this notice. Interested parties are invited to comment on these preliminary results (*see* the ''Public Comment'' section of this notice).

**EFFECTIVE DATE:** April 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** Andrew McAllister or Devta Ohri, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–1174 or (202) 482–3853, respectively.

**SUPPLEMENTARY INFORMATION:**

**Case History**

On August 31, 1992, the Department of Commerce (''the Department'') published in the **Federal Register** the countervailing duty orders on pure magnesium and alloy magnesium from Canada (*see Countervailing Duty Orders: Pure Magnesium and Alloy Magnesium From Canada*, 57 FR 39392 (August 31, 1992) (''Magnesium Investigation''). On August 1, 2006, the Department published a notice of ''Opportunity to Request Administrative Review'' of these countervailing duty orders (*see Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 44085). We received a timely request for review from Norsk Hydro Canada, Inc. (''NHCI''). On September 29, 2006, we initiated these reviews covering shipments of subject merchandise from NHCI (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465).

On October 19, 2006, we issued countervailing duty questionnaires to NHCI, the Government of Québec (''GOQ''), and the Government of Canada (''GOC''). We received questionnaire responses from NHCI on November 20, 2006, the GOQ on November 22, 2006, and the GOC on December 14, 2006.

**Scope of the Orders**

The products covered by these orders are shipments of pure and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes.

The pure and alloy magnesium subject to the orders is currently classifiable under items 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written descriptions of the merchandise subject to the orders are dispositive.

Secondary and granular magnesium are not included in the scope of these orders. Our reasons for excluding granular magnesium are summarized in *Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada*, 57 FR 6094 (February 20, 1992).

**Period of Review**

The period of review (''POR'') for which we are measuring subsidies is January 1, 2005, through August 15, 2005.

**Analysis of Programs**

*I. Programs Preliminarily Determined To Be Not Used*

We examined the following programs and preliminarily determine that NHCI did not apply for or receive benefits under these programs during the POR:

- Article 7 Grant from the Québec Industrial Development Corporation (''SDI'')
- Emploi–Québec Manpower Training Program
- St. Lawrence River Environment Technology Development Program
- Program for Export Market Development
- The Export Development Corporation
- Canada–Québec Subsidiary Agreement on the Economic Development of the Regions of Québec
- Opportunities to Stimulate Technology Programs
- Development Assistance Program
- Industrial Feasibility Study Assistance Program
- Export Promotion Assistance Program
- Creation of Scientific Jobs in Industries
- Business Investment Assistance Program
- Business Financing Program
- Research and Innovation Activities Program
- Export Assistance Program
- Energy Technologies Development Program
- Financial Assistance Program for Research Formation and for the Improvement of the Recycling Industry
- Transportation Research and Development Assistance Program

*II. Program Previously Determined To Be Terminated*

- Exemption from Payment of Water Bills

**Preliminary Results of Reviews**

For the period January 1, 2005, through August 15, 2005, we preliminarily find the net subsidy rate for NHCI to be 0.00 percent.

**Cash Deposit Instructions**

On July 6, 2006, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1)(iii), the Department revoked the countervailing duty orders on pure magnesium and alloy magnesium from Canada (*see Revocation of the Countervailing Duty Orders: Pure Magnesium and Alloy Magnesium from Canada*, 71 FR 38382 (July 6, 2006)). The effective date of the revocations is August 16, 2005. As a result of this action, we do not intend to issue cash deposit instructions.

**Liquidation Instructions**

If the final results of these reviews remain the same as these preliminary results, we will instruct CBP to liquidate entries during the period January 1, 2005, through August 15, 2005, without regard to countervailing duties in accordance with 19 CFR 351.106(c)(1). The Department will issue appropriate instructions directly to CBP within 41 days of publication of the final results of these reviews.

For all other companies that were not reviewed (except Timminco Limited which is excluded from the orders), the Department has directed CBP to assess countervailing duties on all entries between January 1, 2005, and August 15, 2005, at the rates in effect at the time of entry.

**Public Comment**

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 42 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing

will be limited to those raised in the case and rebuttal briefs. Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

The Department will issue the final results of these administrative reviews, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results. *See* section 751(a)(3) of the Act.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 13, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7–7598 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### Minority Business Development Agency

### White House Initiative on Asian Americans and Pacific Islanders, President's Advisory Commission on Asian Americans and Pacific Islanders

**AGENCY:** Minority Business Development Agency, Department of Commerce.

**ACTION:** Notice of Public Teleconference Meeting.

**SUMMARY:** The President's Advisory Commission on Asian Americans and Pacific Islanders (Commission) will convene a teleconference meeting on May 7, 2007 to deliberate the draft Commission report to the President. This meeting is open to the public and interested persons may listen to the teleconference by using the call-in number and pass code provided below (see **ADDRESSES**).

**DATES:** Monday, May 7, 2007, beginning at 3:15 p.m. (EDT).

**ADDRESSES:** By telephone: Beginning at 3 p.m. (EDT) on Monday, May 7, 2007, members of the public may call 1–888–391–9505 and dial pass code 7265419 to access the teleconference. Advance registration is not required.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Commission, please contact Ms. Cianna Ferrer, Executive Assistant, Office of the White House Initiative on Asian Americans and Pacific Islanders, Minority Business Development Agency, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 5612, Washington, DC 20230; telephone (202) 482–3949; facsimile (202) 501–6239; e-mail: *info@aapi.gov.* Note that any correspondence sent by regular mail may be substantially delayed or suspended in delivery, since all regular mail sent to the Department of Commerce is subject to extensive security screening.

**SUPPLEMENTARY INFORMATION:** In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), public announcement is made of the Commission's intent to convene a teleconference meeting on May 7, 2007. This meeting is open to the public and interested persons may listen to the teleconference by using the call-in number and pass code set forth above (see **ADDRESSES**). Advance registration is not required to access the teleconference.

Prospective agenda items for the meeting include a deliberation of the draft Commission report to the President, discussion regarding ratification of the report, administrative tasks and such other Commission business as may arise during the course of the meeting. The Commission welcomes interested persons to submit written comments at any time before or after the meeting to the Office of the White House Initiative on Asian Americans and Pacific Islanders (see **FOR FURTHER INFORMATION CONTACT**). To facilitate distribution of written comments to Commission members prior to the meeting, the Commission suggests that comments be submitted by facsimile or by e-mail no later than May 3, 2007. The Commission will not be receiving public comment during the meeting.

Dated: April 16, 2007.

**Ronald N. Langston,**

*National Director, Minority Business Development Agency.*

[FR Doc. E7–7483 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–21–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 041107A]**

### Marine Mammals; File No. 1121–1900; Correction

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

**ACTION:** Notice; receipt of application; correction.

**SUMMARY:** Notice is hereby given that NOAA Fisheries Office of Science and Technology (Principal Investigator: Dr. Brandon Southall), Silver Spring, MD, has applied in due form for a permit to conduct scientific research on marine mammals.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before May 17, 2007.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; *http://www.nmfs.noaa.gov/pr/permits/review.htm*; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov.* Include in the subject line of the e-mail comment the following document identifier: File No. 1121–1900.

**FOR FURTHER INFORMATION CONTACT:** Tammy Adams or Jolie Harrison, (301)713–2289.

**SUPPLEMENTARY INFORMATION:** On April 17, 2007, notice was published in the **Federal Register** (72 FR 19181) that a request for a scientific research permit had been submitted by the above-named applicant. The file number for the application in the title and e-mail comment address is corrected in this document. All other information to the notice has been unchanged. Please refer to the April 17, 2007, notice for a summary of the application.

Dated: April 17, 2007.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E7–7579 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 041207B]**

### 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 Republic of El Salvador 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 El Salvadorian-flag purse seine vessels or purse seine vessels operating under El Salvadorian jurisdiction to be imported into the United States. The affirmative finding was based on review of documentary evidence submitted by the Republic of El Salvador 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 Republic of El Salvador or obtained from the IATTC and the Department of State and has determined that El Salvador 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 Republic of El Salvador'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 El Salvadorian-flag purse seine vessels or purse seine vessels operating under El Salvadorian jurisdiction. El Salvador's affirmative finding will remain valid through March 31, 2008, subject to subsequent annual reviews by NMFS.

Dated: April 16, 2007.

**Samuel D. Rauch III**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. E7–7564 Filed 4–19–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–00XX]**

### Federal Acquisition Regulation; Information Collection; Online Procurement Services—Industry Outreach Feedback Survey and Online Procurement Services—Reverse Auction Service Providers Outreach Feedback Survey

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding a request for a new OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Office of Federal Procurement Policy's (OFPP) and the General Services Administration's (GSA) intention to initiate a new information collection to conduct two surveys on Online Procurement Services. The results from these surveys will be incorporated into a report to Congress.

Public comments are particularly invited on: Whether the proposed collection of information is necessary, including whether the information shall have practical utility; whether 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; 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 those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before June 19, 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. 9000–00XX, Online Procurement Services—Industry Outreach Feedback Survey and Online Procurement Services—Reverse Auction Service Providers Outreach Feedback Survey, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Ms. Julie Basile, Procurement Policy Analyst, Office of Management and Budget, Office of Federal Procurement Policy, 725 17th Street, NW, Room 9013, Washington, DC 20503 or via e-mail to *jbasile@omb.eop.gov* or via telephone on (202) 395–4821.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

The National Defense Authorization Act for Fiscal Year 2006 (P. L. 109–360) requires OFPP, in consultation with the Federal Acquisition Regulatory Council, to review the use of online procurement services, such as reverse auction services, and identify types of commercial item procurements that are suitable for the use of such services; and features that should be provided by online procurement services that are used by Federal agencies. To conduct this review, a survey will be issued to the Government and industry buying activities and to reverse auction service providers. The information collected through the surveys will be used to determine how the Government buying activities can most effectively use reverse auctions as a tool to support Government requiring activities and ensure that the U.S. taxpayer is best served. To view the two draft surveys entitled, Online Procurement Services—Government and Industry Outreach Feedback and Online Procurement Services—Reverse Auction Service Providers Outreach Feedback, *visit www.acquisition.gov*.

**Title**: Online Procurement Services—Government and Industry Outreach Feedback; and Online Procurement Services—Reverse Auction Service Providers Outreach Feedback.

**OMB Number**: Not Yet Assigned.

**Expiration Date**: Not yet determined.

**Type of Request**: New collection of information.

**Abstract**: The purpose of these two one-time surveys are to determine how Government buying activities can most effectively use reverse auctions as a tool to support Government requiring activities and to ensure the U.S. taxpayer is best served.

**Affected Public**: Two respondent groups are identified and will receive similar surveys on Online Procurement Services: Government and industry buying activities; and reverse auction service providers. However, for the purposes of this collection we are counting the industry buying activities and reverse auction service providers.

**B. Annual Reporting Burden**

Estimated Number of Respondents: approximately 580 and not expected to exceed 1000. The estimated number of industry respondents to the Government and Industry Buying Activities Survey is 550. The estimated number of industry respondents to the Reverse Auction Survey is 30 based on the Government's latest market research. Estimated Number of Responses per Respondent: 1 per company. The number of responses per respondent is one for each of the two surveys. Each respondent will only be required to complete one survey once. Estimated Total Annual Responses: approximately 580 and not expected to exceed 1000 (580 x 1). Estimated Time per Response: 30 minutes (0.50 hours). The estimated average time for industry to respond to Government and Industry Buying Activity Survey is approximately 15 minutes (0.25 hours), based on a pre-test of the draft instrument by Government employees. The data collection instrument for the Reverse Auction Service Providers Survey was pre-tested on a support contractor, a related business sector. The Reverse Auction Service Providers Survey instrument is similar to the Government and Industry Buying Activity Survey; therefore, the pre-test results for the Government and Industry Buying Activity Survey are used to estimate average response time for the Reverse Auction Service Providers Survey, which is 15 minutes (0.25 hours). Estimated Total Annual Burden on Respondents: 290 hours. (580 x 0.50)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

*Respondents*: 580 (not to exceed 1000).

*Responses Per Respondent*: 1.

*Annual Responses*: 580 (not to exceed 1000).

*Hours Per Response*: 0.50.

*Total Burden Hours*: 290.

*Obtaining Copies of Proposals*: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–00XX, Online Procurement Services—Industry Outreach Feedback Survey and Online Procurement Services—Reverse Auction Service Providers Outreach Feedback Survey, in all correspondence.

Dated: April 13, 2007

**Al Matera,**

*Acting Director, Contract Policy Division.*

[FR Doc. 07–1967 Filed 4–19–07; 8:45 am]

**BILLING CODE 6820–EP–S**

## DEPARTMENT OF DEFENSE

### Department of the Army

**[No. USA–2007–0014]**

### Proposed Collection; Comment Request

**AGENCY:** Army Corps of Engineers, Engineer Research and Development

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the U.S. Army Corps of Engineers—ERDC/CERL announces a proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by June 19, 2007.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

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

• Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any

personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to: Larry Pater, PhD, P.E., Program/Project Manager, Noise R&D, U.S. Army Engineer Research and Development Center (ERDC), Construction Engineering Research Laboratory (CERL), 2902 Farber Drive, Champaign, IL 61821.

*Title and OMB Number:* Assessing Human Response to Military Impulse Noise; OMB Control Number 0710—TBD.

*Needs and Uses:* The information collection requirement is necessary to obtain information on the relationship between community annoyance and complaints, related to impulsive noise from military installations. The information will provide the necessary tools and guidance for military installations to effectively balance the need for training operations at military installations with public safety and welfare.

*Affected Public:* Individuals and households.

*Annual Burden Hours:*

Year 1 (2007): 37.5 hours.

Year 2 (2008): 1,575 hours.

Year 3 (2009): 700 hours.

Year 4 (2010): 1,287.5 hours.

Year 5 (2011): 412.5 hours.

*Total Number of Burden Hours for 5 Years:* 4,012.5 hours.

*Number of Respondents:*

Year 1 (2007): 75.

Year 2 (2008): 1,575.

Year 3 (2009): 575.

Year 4 (2010): 725.

Year 5 (2011): 25.

*Total Number of Respondents for 5 Years:* 2,975.

*Respondents Per Respondent:*

Year 1.

- 1 response for 50 Qualitative Personal Interview respondents in three locations (30 minutes per interview equaling 25 hours).
- 1 response for 25 baseline interviews for the respondents participating in the In-situ study at Site #1 (30 minutes per interview equaling 12.5 hours).

*Total Responses for Year 1:* 75.

Year 2.

- 16,750 (estimated) responses for 25 In-situ survey participants (670 respondents per person) at Site #1 (3 minutes per response equaling 837.5 hours).
- 1,225 responses for 1,050 General Community Survey respondents (30 minutes per survey equaling 612.5 hours).
  - 2 responses for 175 panel survey respondents at Site #1.
  - 1 response for 525 cross-sectional survey respondents at Site #1.
  - 1 response for 175 panel survey respondents at Site #2.
  - 1 response for 175 cross-sectional survey respondents at Site #2.
- 1 response for 500 complaint survey respondents (15 minutes per survey equaling 125 hours).

*Total Responses for Year 2:* 18,475.

Year 3.

- 8,250 (estimated) responses for 25 In-situ survey respondents (330 responses per person) at Site #1 (3 minutes per response equaling 412.5 hours).
- 1 response for 25 post measurement interviews for In-situ study participants at Site #1 (30 minutes per interview equaling 12.5 hours).
- 1 response for 25 baseline interviews for the respondents participating in the In-situ study at Site #2 (30 minutes per interview equaling 12.5 hours).
- 1 response for 525 General Community Survey respondents at Site #2 (30 minutes per survey equaling 262.5 hours).
  - 1 response for 175 panel survey respondents.
  - 1 response for 350 cross-sectional survey respondents.

*Total Responses for Year 3:* 8,825.

Year 4.

- 16,750 (estimated) responses for 25 In-situ survey respondents (670 responses per person) at Site #2 (3 minutes per response equaling 837.5 hours).
- 1 response for 25 post measurement interviews In-situ participants at Site #2 (30 minutes per interview equaling 12.5 hours).
- 875 responses for 700 General Community Survey respondents at Site #3 (30 minutes per survey equaling 437.5 hours).
  - 2 responses for 175 panel survey respondents at Site #3.
  - 1 response for 525 cross-sectional survey respondents at Site #3.

*Total Responses for Year 4:* 17,650.

Year 5.

8,250 (estimated) responses for 25 In-situ survey participants at Location #2 (330 responses per person) at Site #2 (3 minutes per response equaling 412.5 hours).

*Total Responses for Year 5:* 8,250.

*Total Number of Responses for 5 years:* 53,275.

*Average Burden per Resposne:*

Qualitative Personal Interview: 30 minutes.

Baseline Interview: 30 minutes.

Post Measurement Interview: 30 minutes.

In-situ Survey: 3 minutes.

General Community Survey: 30 minutes.

Complaint Survey: 15 minutes.

*Frequency of responses:*

Qualitative Personal Interview: One time per installation.

Baseline Interview: One time per installation.

Post Measurement Interview: One time per installation.

In-situ Survey: On occasion for 12 months.

General Community Survey:

Panel Sample: Two times per installation.

Cross-sectional sample: One time per installation.

Complaint Survey: One time per installation.

**SUPPLEMENTARY INFORMATION:**

**Summary of Information Collection**

Respondents are individuals living in the vicinity of selected military installations who regularly experience impulsive noise from explosions and heavy weapons blasts. Information collection includes several different surveys:

1. A qualitative personal interview to explore respondents experiences, understanding, and terminology to refine the survey questions (to be conducted at 2 installations).

2. An In-situ study where respondents are asked to respond to a brief set of 5-6 questions on a PDA whenever they experience an impulsive noise event (to be conducted at 2 installations ).

3. A baseline interview for respondents participating in the In-situ study (to be conducted at 2 installations).

4. A post measurement interview for respondents participating in the In-situ study (to be conducted at 2 installations).

5. A general community survey to gather responses to questions about the impact of impulsive noise events from a large representative sample of community residents (to be conducted at 3 installations).

6. A complaint survey that gathers data on response to a specific noise event for which one or more complaints are received by the military installation. For each recorded noise complaint, a sample of 10 households in the immediate vicinity of the complainant, as well as the complainant will be surveyed (to be conducted at 1 installation).

The study will involve communities surrounding 3 different military

installations to ensure the results and dose-response models can be generalized and applied to other U.S. military installations.

Dated: April 10, 2007.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 07–1969 Filed 4–19–07; 8:45 am]

**BILLING CODE 5001–06–M**

## DEPARTMENT OF DEFENSE

### Department of the Navy

**[No. USN–2007–0028]**

### Proposed Collection; Comment Request

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the United States Naval Academy announces the submission of a new public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by June 19, 2007.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information or to obtain a copy of the proposal and associated collection instruments, write to the Commandant of Midshipmen, Operations Office, United States Naval Academy, 101 Buchanan Road, Annapolis, MD 21402–5101, or contact Captain Gary Williams, telephone (410) 293–7125.

*Title; Associated Form; and OMB Number:* United States Naval Academy Sponsor Application; OMB Control Number 0703–TBD.

*Needs and Uses:* This collection of information is necessary to determine the eligibility and overall compatibility between sponsor applicants and Fourth Class Midshipmen at the United States Naval Academy. An analysis of the information collection is made by the Sponsor Program Director during the process in order to best match sponsors with Midshipmen.

*Affected Public:* Individuals or households; Federal government.

*Annual Burden Hours:* 800.

*Number of Respondents:* 800.

*Responses Per Respondent:* 1.

*Average Burden Per Response:* 1 hour.

*Frequency:* Annually.

**SUPPLEMENTARY INFORMATION:**

**Summary of Information Collection**

The sponsor program matches first-year students with families in the community for a semblance of home away from the rigors of the academy.

The application is used to evaluate and match sponsor families with incoming midshipmen of similar interests.

Dated: April 12, 2007.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 07–1968 Filed 4–19–07; 8:45 am]

**BILLING CODE 5001–06–M**

## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Thursday, May 10, 2007. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive in West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 10:15 a.m. Topics include a presentation on the status of the Flood Mitigation Task Force report and recommendations; a presentation on a revised proposal for a Flexible Flow Management Plan (FFMP) for the New York City Delaware Basin Reservoirs for potential consideration by the Commission at its meeting in July; a presentation on PCB Trackdown for the Camden County Municipal Utilities Authority; and a presentation on proposed modifications to the Commission's office building to improve energy efficiency and reduce cost.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *Pen Argyl Municipal Authority D–75–28 CP–2.* An application for approval to upgrade the Pen Argyl Municipal Authority WWTP. The WWTP design capacity will remain at 0.95 mgd. The project involves replacement of the existing contact aeration/trickling filter processes with a sequencing batch reactor process. The treatment process change is needed to improve nutrient removal. The WWTP will continue to discharge to an un-named tributary of Waltz Creek in the Martins Creek Watershed, which is located within the drainage area to a section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters. The WWTP serves the Borough of Pen Argyl and portions of Plainfield and Washington Townships, all located within Northampton County, Pennsylvania.

2. *Mt. Airy #1, LLC D–77–58–3.* An application to modify an existing wastewater treatment plant to replace aged equipment and provide more reliable operation of the treatment facility. The modifications include installation of new fine screening equipment to replace the comminutor; replacement of the existing air supply system, including the blowers and air diffusers in the aeration basins; installation of new alum, polymer, alkalinity and sodium hypochlorite systems for process control and disinfection; construction of a new sludge holding tank; and miscellaneous improvements to controls, power supply and alarms throughout the treatment facility. No change is proposed to the existing effluent limits or design capacity of 0.220 million gallons per day. The project effluent discharges to Forest Hills Run in the drainage area of DRBC Special Protection Waters. The project is located at the former Mount

Airy Lodge property in Paradise Township, Monroe County, Pennsylvania. In addition to serving a proposed hotel and casino, the project will continue to serve the adjacent golf course clubhouse and Our Lady of the Poconos Convent, also in Paradise Township.

3. *West Deptford Township D–79–82 CP–4.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 108.5 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 3, 4, 5, 6, 7 and 8 in the Potomac-Raritan-Magothy Formation. The project is located in the Mantua Creek and Woodbury Creek watersheds in West Deptford Township, Gloucester County, New Jersey.

4. *Lake Wynonah Municipal Authority D–91–20 CP–3.* An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's public water supply distribution system from new Well No. 8 and to retain the existing withdrawal from all wells of 12 mg/30 days. The project is located in the Long Run Member of the Catskill Formation in the Plum Creek Watershed in Wayne and South Manheim Townships, Schuylkill County, Pennsylvania.

5. *City of Philadelphia—Division of Aviation D–96–36 CP–2.* An application for the renewal of a ground water withdrawal project to continue the withdrawal of 29.7 mg/30 days to supply the applicant's western boundary area mitigation system from existing Wells Nos. EW–A, EW–1, EW–2 and EW–3 in the Pleistocene Sand and Gravel Formation. The project is located in the Delaware River Watershed in the City of Philadelphia, Philadelphia County, Pennsylvania.

6. *Buckingham Township D–2003–13 CP–4.* An application for approval of a ground water withdrawal project to supply up to 3.24 mg/30 days of water to the applicant's public water supply distribution system from new Well No. CS–5 and to retain the existing total withdrawal allocation from all wells of 42 mg/30 days. The project is located in the Stockton, Brunswick and Lockatong formations in the Pine Creek, Neshaminy Creek and Robin Run watersheds in Buckingham Township, Bucks County, PA and is located in the Southeastern Pennsylvania Ground Water Protected Area. (This project was originally noticed on 8/18/2005 as part of Docket D–2003–13 CP–2.)

7. *Borough of Bridgeport D–70–81 CP–2.* An application for approval to rerate a 0.77 million gallons per day (mgd) wastewater treatment plant (WWTP) to operate at its design capacity of 0.9 mgd. The project is located off River Road just south of the Pennsylvania Turnpike in the Schuylkill River Watershed in Upper Merion Township, Montgomery County, Pennsylvania. The WWTP will continue to serve Bridgeport Borough and discharge to the Schuylkill River through the existing outfall. The project is located in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Mount Holly Municipal Utilities Authority D–70–133 CP–3.* An application for approval to expand a 5 mgd WWTP to treat 6 mgd. The project is located in the Rancocas Creek Watershed in Mount Holly Township, Burlington County, New Jersey. The expanded WWTP will continue to serve Mount Holly Township and portions of Eastampton, Mount Laurel, Hainesport, Lumberton, Moorestown, and Westampton Townships, all within Burlington County. The existing powdered activated carbon treatment system will be replaced by a conventional activated sludge process. Following chlorine disinfection, the WWTP effluent will be aerated and discharged to North Branch Rancocas Creek within the tidal reach of DRBC Water Quality Zone 2.

9. *Borough of National Park D–77–18 CP–2.* An application for approval of a ground water withdrawal project to supply up to 12 million gallons per thirty days (mg/30 days) of water to the applicant's public supply distribution system from new Well No. 6 and existing Well No. 5, formerly known as Well No. 4. The requested allocation of 12 mg/30 days constitutes a decrease from the existing allocation of 22.5 mg/30 days. The project is located in the Potomac-Raritan-Magothy Formation in the Woodbury Creek Watershed in National Park Borough, Gloucester County, New Jersey.

10. *Waste Management Disposal Services of Pennsylvania, Inc. D–91–47 PA–3.* An application for renewal of a ground water withdrawal project at Pottstown Landfill to continue withdrawal of up to 0.6 mg/30 days of water to the docket holder's contaminant extraction system from new recovery well RW–7 and from six existing recovery wells (RW–1 through RW–6). The docket holder seeks to retain the existing withdrawal limit from all wells of 0.6 mg/30 days, notwithstanding that its current need is less than 10,000 gpd. The project is located in the Brunswick and Lockatong Formations in the Manatawny Creek Watershed in West Pottsgrove Township, Montgomery County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area. (This was NAR'd as D–97–47 PA–3.)

11. *Pennsylvania American Water Company D–98–16 CP–2.* An application for the renewal of a ground water withdrawal project to increase withdrawal from 36 mg/30 days to 61.5 mg/30 days. The requested allocation includes the existing allocation of 36 mg/30 days from Wells PCP No. 2, PCP No. 3, PCP No. 4, PFE No. 2, PFE No. 4, Pine Hill, Summit Point, PMIPA, and Coolbaugh No. 1, all approved by Docket No. D–98–16 CP, in addition to the existing allocation of 15.75 mg/30 days for Wells Nos. 1, 2, 3, 4, 5, and 7 of the Pocono Farms Water Company, approved by Docket No. D–94–65 CP–2, which was recently acquired by the applicant. The applicant is also seeking approval for a new well, which is designated as the Mt. Pocono Field Office well. The wells are located in the Polar Gap and Catskill Formations in the Tobyhanna Creek, East Branch Tobyhanna Creek, Devils Hole Creek, Red Run, and Indian Run Watersheds in Coolbaugh Township and Mt. Pocono Borough, Monroe County, Pennsylvania. This withdrawal project is located within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

12. *Downingtown Area Regional Authority D–98–33 CP–2.* An application for approval of the rerate of the existing Downingtown Area Regional Authority's WWTP. The discharge from the applicant's WWTP will increase from an average annual flow of 7.134 mgd to 7.5 mgd and will continue to be discharged to the East Branch Brandywine Creek. Additional solids handling improvements are also included in the project. The facility is located in East Caln Township, Chester County, Pennsylvania.

13. *Dow Reichhold Specialty Latex LLC D–99–32–2.* An application for approval of a ground water withdrawal project to supply up to 5.4 mg/30 days of water to the applicant's reverse osmosis facility from new Well No. 18 and to increase the existing withdrawal from all wells from 17 mg/30 days to 22.4 mg/30 days. The water will be used to create distilled water for the applicant's latex manufacturing facility. The project is located in the Magothy Aquifer in the Fork Branch Watershed in Kent County, Delaware.

14. *Lonza, Inc. D–99–38–2.* An application requesting approval for an increase in the average monthly and maximum daily TDS limit for the docket holder's industrial waste treatment plant (IWTP) discharge. The request is to increase the average monthly limit

from 17,500 mg/l to 20,000 mg/l and to increase the maximum daily limit from 35,000 mg/l to 40,000 mg/l. The docket holder has requested that the average monthly and maximum daily mass loading rates for TDS be increased to 13,344 lb/day and 26,688 lb/day, respectively. The docket holder's IWTP treats effluent from the production of pharmaceutical products. The IWTP discharges to the Schuylkill River. The facility is located in Upper Merion Township, Montgomery County, PA.

*15. Upper Saucon Township D–2000–51 CP–2.* An application for approval of a groundwater withdrawal project to supply up to 32.16 million gallons per thirty days (mg/30 days) of water to the docket holder's public supply distribution system through one new well (Well No. CC2) and two existing wells (Wells Nos. CC1 and Abandoned Mine Shaft). The individual allocation for the Abandoned Mine Shaft Well is a reduction from the previous allocation of 30 mg/30 days to 3 mg/30 days; however, the proposed total allocation for all sources is an increase from the previous total allocation for all sources of 30 mg/30 days. The project is located in the Brunswick Formation in the Saucon Creek Watershed in Upper Saucon Township, Lehigh County, Pennsylvania.

16. *Upper Bern Township D–2001–2 CP–2.* An application for approval to expand a 0.055 mgd WWTP to treat 0.155 mgd. The project will continue to serve only a portion of Upper Bern Township, Berks County, Pennsylvania. The project is needed to serve future growth in the township and to connect some on-lot septic systems to the WWTP. The existing sequencing batch reactor plant will be supplemented by a 0.1 mgd biologically engineered single sludge treatment system, which is a modification of the conventional activated sludge process. The existing chlorine disinfection system will be replaced by an ultraviolet light system and the existing headworks will be replaced by a new Rotomat unit. The project is located off the intersection of Main Street and Wolf Creek Road in Upper Bern Township upstream from Blue Marsh Reservoir in the Tulpehocken Creek Watershed. The WWTP will continue to discharge to Wolf Creek, a tributary of Northkill Creek.

17. *The Upper Hanover Authority D–2002–10 CP–2.* An application for the renewal of a groundwater withdrawal project to increase the total system withdrawal from 32.12 mg/30 days to 43.113 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. RH–1, RH–2, RH–3, TUHA–1, TUHA–2, TUHA–3, TUHA–4 and Kemmerer Spring in the Brunswick, Leithsville and Hardyston Quartzite formations. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Perkiomen and Macoby Creek watersheds in Upper Hanover Township, Montgomery County and Hereford Township, Berks County, Pennsylvania and within the Southeastern Pennsylvania Ground Water Protected Area.

18. *Blair Academy D–76–89.* An application for approval of the existing Blair Academy WWTP. The WWTP is permitted to discharge 50,000 gallons per day (gpd) to Blair Creek, a tributary of the Paulins Kill River. The facility is located in Blairstown Township, Warren County, New Jersey, within the drainage area to a section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

19. *Mirant NY-Gen, LLC D–2001–38 CP–1.* An application for approval of the continued operation and remediated control measures of the applicant's Mongaup hydropower and reservoir system. The project is located in the Mongaup River Watershed in Orange and Sullivan Counties, New York in the drainage area of the Upper Delaware portion of DRBC's Special Protection Waters. The project facilities include the Toronto, Cliff Lake and Swinging Bridge Reservoirs, the latter of which provides hydroelectric power and receives flows from the former. In addition, the applicant makes releases from and generates hydroelectric power via its Mongaup Falls and Rio Reservoir facilities, also in the Mongaup River Basin. This application modifies an application originally noticed on August 20, 2001, which requested approval of an operating plan for the applicant's Mongaup hydropower and reservoir system. Mirant's Swinging Bridge Reservoir has two powerhouses (Units No. 1 and 2). The modified application includes eliminating the use of Unit No. 1 by filling the gate tower, penstock and tunnel with lightweight concrete. As a result, Unit No. 2 operating time is proposed to be increased from 13% to 30% and to use approximately 97% of the available inflow to the site, with only minor losses of power generation capability. Remedial control measures, including sinkhole back-filling, filter installation to stabilize material movement, and the conduit-related grouting, are being undertaken with the approval of the Federal Energy Regulatory Commission (FERC) to provide structural repair at the dam, which had undergone subsidence. Mirant determined that complete filling of the conduit would further assure that future subsidence would not recur. Mirant applied for an Emergency Certificate from DRBC to implement the Swinging Bridge Dam modification project in an expeditious manner. The Emergency Certificate was approved by the DRBC on February 13, 2007. The project will not change reservoir volumes or affect reservoir level maintenance, and will not change the regulated flow from the Mongaup River System to the Delaware River.

20. *Pocono Manor Investors, LP. D–2006–26–1.* An application for approval of the existing Pocono Manor Resort WWTP discharge of 0.140 mgd. The WWTP will continue to discharge to Swiftwater Creek, which is a tributary to the Brodhead Creek. The Brodhead Creek is a tributary to the Middle Delaware River Special Protection Waters. The facility is located in Pocono Township, and currently serves Pocono Manor Village and the Pocono Manor Inn. The facility was built to service the 3,000 acre Pocono Manor property that is located in Pocono Township, Mount Pocono Borough and Tobyhanna Township, Monroe County, Pennsylvania.

21. *Alcan Global Pharmaceutical Packing, Inc. D–2006–30–1.* An application for the approval of the existing discharge from the applicant's Millville Tube Drawing facility. The facility discharges 84,500 gpd of contact and non-contact cooling water to Petticoat Stream, which is a tributary of the Maurice River. The facility manufactures pressed and blown glassware, and cooling water is used to cool the glass furnace and compressors. The facility is located in Millville City, Cumberland County, New Jersey.

22. *Hudson Valley Foie Gras, LLC D–2006–37–1.* An application for approval to increase an existing discharge from the applicant's WWTP from 4,000 gpd to 20,000 gpd. The WWTP will continue to discharge to the Middle Mongaup River, which is a tributary of the Mongaup River. The Mongaup River is a tributary to the Upper Delaware River which is designated as Special Protection Waters. The facility is located in Ferndale, Sullivan County, New York.

23. *Joshmor, Inc. D–2007–5–1.* An application for approval to construct a 0.047 mgd WWTP to serve 207 single family homes in the proposed Emerson Chase Development. The project is located in the McMichael Creek Watershed in Jackson and Chestnuthill Townships, Monroe County, Pennsylvania. Following treatment in a

3-cell lagoon and a filter system, disinfected effluent will be spray applied to approximately 13 acres of adjacent woodland in the drainage area of the Middle Delaware portion of DRBC's Special Protection Waters. Because the proposed lagoon will be lined with synthetic material and will provide up to 177 days of storage, no discharge to McMichael Creek is proposed.

24. *Golden Pheasant Golf Course D–2007–9–1.* An application for approval of a surface water withdrawal project to supply up to 15.4 mg/30 days of water to the applicant's golf course irrigation system from 4 surface water intakes. The project is located in the South Branch Rancocas Creek Watershed in Lumberton and Medford Townships, Burlington County, New Jersey.

25. *Unimin Corporation D–2007–14–1.* An application for approval to discharge up to 2.275 mgd to Dividing Creek from a hydraulic dredging operation. After neutralization and sedimentation, wash water from sorted dredge material (slurry sand) along with scalping screen separator water, stormwater, and infiltration groundwater is discharged to Outfall 001A. The applicant also discharges to Cub Swamp, a tributary of Dividing Creek, through Outfall 002A during 10-year storm events. The facility is located in the tidal Delaware Bay Watershed in Commercial and Downe townships, Cumberland County, New Jersey.

In addition to the public hearing on the dockets listed above, the Commission's 1:30 p.m. business meeting will include: A public hearing and consideration of a resolution regarding an interim releases program for the New York City Delaware Basin Reservoirs pending notice and comment rulemaking on a revised proposal for a Flexible Flow Management Plan (FFMP); a resolution authorizing the executive director to engage the U.S. Geological Survey as prime contractor, in collaboration with NOAA/National Weather Service, the U.S. Army Corps of Engineers and DRBC, for development of a model for evaluating the potential for Delaware Basin Reservoirs to be used to mitigate flooding; a resolution reauthorizing the Toxics Advisory Committee; a resolution authorizing the executive director to engage contractors to design building modifications to improve energy efficiency and reduce cost, and to develop RFPs for construction; a resolution authorizing the executive director to solicit bids for building modifications in association with development of the Ruth Patrick River Garden; a resolution providing for election of the Commission Chair, Vice Chair and Second Vice Chair for the year commencing July 1, 2007; and a resolution for the minutes providing for annual salary rates of Commission employees for fiscal year 2008.

The meeting will also include: adoption of the Minutes of the Commission's February 28, 2007 business meeting; announcements of upcoming advisory committee meetings and other events; a report by the Executive Director; a report by the Commission's General Counsel; and an opportunity for public dialogue.

Draft dockets scheduled for public hearing on May 10, 2007 will be posted on the Commission's Web site, *http://www.drbc.net*, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the commission secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate your needs.

Dated: April 13, 2007.

**Pamela M. Bush,**

*Commission Secretary.*

[FR Doc. E7–7505 Filed 4–19–07; 8:45 am]

**BILLING CODE 6360–01–P**

## DEPARTMENT OF EDUCATION

### National Advisory Council on Indian Education

**AGENCY:** U.S. Department of Education, Office of Elementary and Secondary Education.

**ACTION:** Notice of open meeting.

**SUMMARY:** On April 12, 2007, the Secretary published in the **Federal Register** Vol. 72, No. 70, a notice of an open meeting for the National Advisory Council on Indian Education. This notice amends the April 12, 2007, notice by changing the location of the meeting.

This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Advisory Council on Indian Education (the Council) and is intended to notify the general public of their opportunity to attend. This notice also describes the functions of the Council. Notice of the Council's meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act and by the Council's charter.

*Agenda:* The Council will discuss their development of the Council's Annual Report to Congress, subcommittee work activities and updates on Executive Order 13336.

*Dates:* May 2, 2007.

*Time:* 9 a.m. to 4 p.m.

*Location:* U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Peirce Hammond, Acting Director, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: 202–401–0953. Fax: 202–260–7779.

**SUPPLEMENTARY INFORMATION:** The Council advises the Secretary of Education on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary has jurisdiction and includes Indian children or adults as participants or programs that may benefit Indian children or adults, including any program established under Title VII, Part A of the ESEA. The Council submits to the Congress, not later than June 30 of each year, a report on the activities of the Council that includes recommendations the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

The general public is welcome to attend the May 2, 2007, meeting to be held from 9 a.m. to 4 p.m. in Washington, DC. Individuals who need accommodations for a disability in order to participate (*i.e.*, interpreting services, assistive listening devices, materials in alternative format) should notify Peirce Hammond at 202–401–0953 by April 23, 2007. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

Opportunities for public comment are available on May 2 from 11–11:30 a.m. on a first come, first served basis. Comments presented at the meeting are limited to 5 minutes in length. Written comments to accompany oral remarks

are optional. Five copies of written comments are recommended and should be submitted to the committee chair at the meeting.

*Request for Written Comments:* We invite the public to submit written comments relevant to the focus of the Advisory Committee. We would like to receive written comments from members of the public no later than April 30, 2007.

**SUPPLEMENTARY INFORMATION:** Submit all comments to the Advisory Committee using one of the following methods: 1. Internet. We encourage the public to submit comments through the Internet to the following address: *Peirce.Hammond@ed.gov* 2. Mail. The public may also submit comments via mail to Peirce Hammond, Office of Indian Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5C132, Washington, DC 20202. Due to delays in mail delivery caused by heightened security, please allow adequate time for the mail to be received.

Records are kept of all Council proceedings and are available for public inspection at the Office of Indian Education, United States Department of Education, Room 5C141, 400 Maryland Avenue, SW., Washington, DC 20202, Monday through Friday from 9 a.m. to 5 p.m.

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/federegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

**Kerri L. Briggs,**

*Acting Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. E7–7522 Filed 4–19–07; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

**[Case No. CAC–013]**

### Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Denial of the Application for Interim Waiver of Cascade Group, LLC From the DOE Commercial Package Air Conditioner and Heat Pump Test Procedures

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

**ACTION:** Notice of Petition for Waiver, denial of Application for Interim Waiver, and request for comments.

**SUMMARY:** Today's notice publishes the Petition for Waiver from Cascade Group, LLC (hereafter ''Cascade''). This Petition for Waiver (hereafter ''Cascade Petition'') requests a waiver from the Department of Energy (hereafter ''DOE'') test procedure for commercial package air conditioners and heat pumps. In addition, today's notice denies Cascade's Application for Interim Waiver from the DOE test procedure applicable to commercial package air conditioners and heat pumps. Today's notice also includes an alternate test procedure DOE is considering. DOE is soliciting comments, data, and information with respect to the Cascade Petition, Cascade's Application for Interim Waiver, and the proposed alternate test procedure.

**DATES:** DOE will accept comments, data, and information until, but no later than May 21, 2007.

**ADDRESSES:** Please submit comments, identified by case number CAC–013, by any of the following methods:

- *Mail:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Room 1J–018, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.
- *E-mail: Michael.Raymond@ee.doe.gov*. Include either the case number [CAC–013], and/or ''Cascade Petition'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting the signed original paper document. DOE does not accept telefacsimiles (faxes). Any person submitting written comments must also send a copy of such comments to the petitioner. (10 CFR 431.401(d)(2)) The contact information for the Petitioner of today's notice is: Gary R. Scoggins, P.E., Special Projects Engineer, United Mechanical, Inc., P.O. Box 551206, Dallas, Texas 75355–1206.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to that determination.

*Docket:* For access to the docket to read the background documents relevant to this matter, go to the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following: (1) This notice; (2) public comments received; (3) the Cascade Petition for Waiver and Application for Interim Waiver; and (4) prior DOE rulemakings regarding commercial central air conditioners and heat pumps. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. Please note that DOE's Freedom of Information Reading Room (formerly Room 1E–190 at the Forrestal Building) is no longer housing rulemaking materials.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–

0121, (202) 586–9611; e-mail: *Michael.Raymond.ee.doe.gov;* or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507; e-mail: *Francine.Pinto@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:**

I. Background and Authority
II. Petition for Waiver
III. Application for Interim Waiver
IV. Alternate Test Procedure
V. Summary and Request for Comments

## I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part C of Title III (42 U.S.C. 6311–6317) provides for an energy efficiency program entitled ''Certain Industrial Equipment,'' and includes commercial air conditioning equipment, packaged boilers, water heaters, and other types of commercial equipment.

Today's notice involves commercial equipment under Part C, which specifically provides for definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. With respect to test procedures, Part C generally authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which reflect energy efficiency, energy use and estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)).

For commercial package air conditioning and heating equipment, EPCA provides that the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute (ARI) or by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992. (42 U.S.C. 6314(a)(4)(A)) This section also provides for the Secretary of Energy to amend the test procedure for a product if the industry test procedure is amended, unless the Secretary determines that such a modified test procedure does not meet the statutory criteria. (42 U.S.C. 6314(a)(4)(B)) On October 21, 2004, DOE published a direct final rule, effective December 20, 2004, adopting ARI Standard 210/240–2003 for small commercial package air conditioning and heating equipment with capacities < 65,000 Btu/h and ARI Standard 340/360–2000 for large commercial package air conditioning and heating equipment with capacities ≥ 135,000 Btu/h and < 240,000 Btu/h and small commercial package air conditioning and heating equipment with capacities ≥ 65,000 Btu/h and < 135,000 Btu/h. 69 FR 61962, October 21, 2004. According to Cascade, both ARI Standard 340/360–2000 and ARI Standard 210/240–2003 are applicable to Cascade's Cascade Energy Saver (CES) products. However, Cascade only seeks a waiver from ARI Standard 210/240–2003.

DOE's regulations set forth under 10 CFR 431.401 contain provisions allowing a person to seek a waiver from the test procedure requirements for commercial equipment. The waiver provisions allow the Assistant Secretary for Energy Efficiency and Renewable Energy (hereafter ''Assistant Secretary'') to temporarily waive test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which either prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(4). Petitioners are to include in their petition any alternate test procedures known to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 431.401(b)(1)(iii). Waivers generally remain in effect until final test procedure amendments become effective, thereby resolving the problem that is the subject of the waiver. 10 CFR 431.401(g).

The waiver process also allows the Assistant Secretary to grant an interim waiver from test procedure requirements to manufacturers who have petitioned DOE for a waiver of such prescribed test procedures. 10 CFR 431.401(a)(2). An interim waiver remains in effect for a period of 180 days or until DOE issues its determination on the petition for waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary. 10 CFR 431.401(e)(4).

## II. Petition for Waiver

On July 22, 2005, Cascade filed the Cascade Petition for Waiver and its Application for an Interim Waiver from the test procedures applicable to commercial package air conditioning and heating equipment. On May 26, 2006, Cascade filed an amended Petition for Waiver listing all the basic models for which Cascade seeks a waiver. In particular, Cascade requested a waiver from the commercial test procedures contained in ARI Standard 210/240–2003 for the system combinations listed in Table 1, attached to its amended Petition.

Cascade seeks a waiver from the test procedures in ARI Standard 210/240–2003 and asserts that the design characteristics of the CES systems prevent testing according to these prescribed test procedures. In particular, Cascade states that the CES indoor-coil blower models have more than one blower per coil and up to and as many as eight blowers that operate independently. Cascade claims that its products do not conform to the test procedures in ARI Standard 210/240–2003, because these test procedures are based on a system with only one indoor-coil blower.

Cascade asserts that with slight modifications to ARI 210/240 procedures, CES units can be tested and that such testing can provide measurements to satisfactorily determine the Seasonal Energy Efficiency Ratio (SEER) and the Heating Seasonal Performance Factor (HSPF). Cascade included in its petition sample SEER calculations, sample test procedures used to derive the SEER calculations, and sample test data. The testing, contracted by Cascade to Texas A&M University Energy Services Laboratory (hereafter ''TAMU–ESL''), provides data on a system with two 2.5-ton Amana RHF 030 heat pump units of SEER 12 connected to a dual-circuit evaporator coil, followed by a plenum housing 8 blowers operated by a control system. Using a test procedure based on ARI 210/240, TAMU–ESL calculated a SEER value of 18.1 and an HSPF of 9.5. Details of the testing are provided in the Cascade Petition, published in full, below.

## III. Application for Interim Waiver

Cascade also requested immediate relief through its Application for Interim Waiver to avert undue economic hardship. According to DOE regulations, an interim waiver may be granted if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief

pending a determination of the petition for waiver. 10 CFR 431.401(e)(3).

Cascade's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Cascade will likely experience absent a favorable determination on its application. It also does not provide sufficient information to determine if there are public policy reasons to grant immediate relief. Furthermore, DOE has never granted a previous waiver for a similar product design. Thus, the likelihood of granting the waiver is unclear until further information and comment is provided.

Therefore, Cascade's Application for an Interim Waiver from the DOE test procedure for its CES products is denied. Hence, it is ordered that: The Application for Interim Waiver filed by Cascade is hereby denied for Cascade's CES air conditioners and central air conditioning heat pumps.

This denial of Cascade's Application for Interim Waiver is based upon the presumed validity of statements and allegations submitted by the company. This denial of Interim Waiver may be modified if DOE receives information that justifies granting an Interim Waiver.

## IV. Alternate Test Procedure

DOE will make its judgment on the Cascade Petition after the period for public comment ends. However, should DOE grant Cascade a waiver from the applicable test procedures, DOE would likely prescribe an alternate test procedure. Manufacturers face restrictions with respect to making representations about the energy consumption and energy consumption costs of products covered by EPCA. (42 U.S.C. 6314(d)) Consistent representations are important for manufacturers to make claims about the energy efficiency of their products. For example, they are necessary to determine compliance with state and local energy codes and regulatory requirements, and can provide valuable consumer purchasing information. Therefore, DOE is considering an alternate test procedure for Cascade. DOE is publishing the proposed alternate test procedure in this notice to account for the potential need for an alternate test procedure and to allow the public to comment on a proposed alternate test procedure.

Cascade included a description of an alternate test procedure and test data for a sample system in its Petition. DOE is considering prescribing an alternate test procedure that takes into account the information Cascade provided in the petition. In particular, the proposed alternate test procedure would require Cascade to test units according to ARI Standard 210/240–2003, but permit Cascade to use alternate requirements when testing systems that have multiple fans per indoor coil.[1] Cascade may test systems with multiple indoor fans that jointly provide the total indoor-coil airflow rate required for the capacity being tested, however, Cascade would be required to adhere to the airflow requirement of section 6.1.3.3 of ARI Standard 210/240–2003, which sets an upper limit on indoor-coil airflow according to system capacity.[2] During testing, the individual indoor fans would each deliver an equal portion of the total required airflow.

DOE generally agrees with TAMU–ESL's testing and analysis of a system with a CES 5-ton, 8-zone unit connected to an Amana RHF030 heat pump with a SEER of 12–14. As each Amana RHF030 heat pump uses a single-speed compressor, DOE agrees with TAMU–ESL's choice to treat the system as a two-speed blower with a two-stage compressor and test the system according to A2.2.2 and A2.1.3. Furthermore, DOE agrees with TAMU–ESL's decision to ensure a total indoor-coil airflow rate of around 2,000 cfm with eight blowers providing 250 cfm each, when operating the system at a full capacity. For low-speed conditions, TAMU–ESL operated the system at a 2.5-ton capacity and ensured a total indoor-coil airflow rate of around 1,000 cfm, with four blowers providing 250 cfm each.

However, it is not clear why TAMU–ESL conducted Test C for full load operation only, though section A3.1.3 indicates that if one chooses to perform Test C, the system must be tested at low-speed. Furthermore, for certification, testing conditions must fall within the applicable tolerances provided in ARI 210/240–2003. Finally, while DOE generally approves of the TAMU–ESL method to test a CES multi-blower unit paired with two Amana RHF030 heat pumps, DOE would expect Cascade to test its units according to those appropriate tests, procedures and conditions generally stated in ARI 210/240–2003. For example, testing of a CES unit paired to a variable-speed compressor should follow the procedures and requirements described for a system with a variable-speed compressor in A2.1.6.

Given consideration of the information provided to DOE in the Cascade Petition, DOE is considering the following alternate test procedure:

*Alternate test procedure.* Cascade shall be required to test the products covered under this Waiver according to the prescribed tests, conditions, and procedures referenced in ARI Standard 210/240–2003, except that Cascade shall be permitted to test systems with indoor units that have multiple fans. As such, Cascade shall be required to meet the usual indoor-coil airflow rate requirements of ARI Standard 210/240–2003, section 6.1.3.3. However, tested units may run multiple indoor-coil fans which collectively meet the required indoor-coil airflow rates per capacity. To determine the level at which to operate the indoor fans during testing, Cascade may divide the total indoor-coil airflow rate at full load, by the number of indoor fans in the tested system. During testing, Cascade shall run the indoor fans at this level, and may decide how many indoor fans to operate by dividing the total indoor-coil airflow required at the capacity being tested by the indoor fan level, as determined above. Cascade may make representations of the CES products covered in this Waiver, consistent with the provisions outlined in this alternate test procedure.

## V. Summary and Request for Comments

Today's notice announces the Cascade Petition for Waiver and denies Cascade's Application for Interim Waiver from the test procedures applicable to Cascade's CES air conditioner and heat pump units. DOE is publishing the Cascade Petition for Waiver in its entirety. The Cascade Petition contains no confidential information. Furthermore, today's notice includes an alternate test procedure that the DOE is considering including in the subsequent Decision and Order, should DOE decide to grant Cascade a Waiver.

DOE is interested in receiving comments on all aspects of this notice. DOE is particularly interested in receiving comments and views of interested parties concerning whether to grant the Cascade Petition and regarding the proposed alternate test procedure. Specifically, DOE would like to receive comment on the following questions:

- Does this alternate test procedure adequately specify how to handle

[1] For example, according to a 450 cfm/ton requirement, a 5 ton unit would be permitted to have an airflow rate of 2,250 cfm or lower. If that system were to operate at 2,000 cfm and have 8 fans, each fan would blow 250 cfm. In addition, if that same system were to operate at partial load with 2.5 tons of capacity, the tester could operate 4 fans with each fan blowing 250 cfm.

[2] For example, section 6.1.3.3 requires equipment with indoor fans intended for use with field installed duct systems to be rated at the indoor-coil airflow rate of equal to or less than 37.5 SCFM per 1,000 Btu/h of rated capacity.

airflows when testing a system with multiple blowers?

• In the proposed alternate test procedure, fans are to run at a set cfm per fan throughout a test. Is this appropriate or should DOE allow fans to run at different cfm's throughout a test while still meeting the required overall indoor-coil airflow rate according to capacity?

• Cascade states that the current test procedure is not specific about the method of configuring a dual-circuited evaporator coil to blowers. However, Cascade does not propose specific language. Does the alternate test procedure proposed in this notice need to specifically address configurations of dual-evaporator coils and coil-blowers?

• DOE is interested in receiving general comments on possible modifications to any test procedures or alternative rating methods that DOE could use to fairly represent the energy efficiency of Cascade's CES products.

Any person submitting written comments must also send a copy of such comments to the Petitioner, whose contact information is cited above. 10 CFR 431.201(d)(2).

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

**Alexander A. Karsner,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

**Petition of Waiver Submitted by: Cascade Group, LLC, General partner for Cascade Manufacturing, LP; 11540 Plano Road, Dallas, Texas 75243, 1–214–341–9300, Patents 5,701,750 and 6,792,768, 05/26/06, Amended 04/16/07**

IDENTIFICATION OF BASIC SIZES AND MODELS OF CES
THE CES IS SOLD IN THE FOLLOWING SIZES AND MODELS:
Number of Blowers
DESIGN CHARACTERISTICS CONSTITUTING THE GROUNDS FOR PETITION
SPECIFIC REQUIREMENTS SOUGHT TO BE WAIVED
DISCUSSION IN DETAILS FOR THE REQUESTED WAIVER
IDENTIFICATION OF MANUFACTURERS WITH SIMILAR DESIGN CHARACTERISTICS
ALTERNATIVE TEST PROCEDURES TO EVALUATE ENERGY CONSUMPTION CHARACTERISTICS

**Identification of Basic Sizes and Models of CES**

The CES is sold in the following sizes and models:

Example 1: Model CES 1–2–2-H–5kw is a size 2 Ton evaporative coil matched with a single 2 ton heat pump, with 2 blowers, horizontal configuration with 5 kW auxiliary heat.

Example 2: Model CES 2–2.5–8-V–10kw is a size 6 ton 50/50 split evaporative coil matched with two 2.5 ton heat pumps, with 8 blowers, vertical upflow configuration with 10 kW auxiliary heat.

**Note:** Table 1 below only shows horizontal configurations. There is not a difference in performance. A vertical unit could have been easily represented.

TABLE 1

| Tons | Qty of heat pump units | Number of blowers | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 2 | 1–2 Ton | 2 | 3 | 4 | | | | |
| | | CES 1–2–2–H–5KW | CES 1–2–3–H–5KW | CES 1–2–4–H–5KW. | | | | |
| 2.5 | 1–2.5 T | 2 | 3 | 4 | | | | |
| | | CES 1–2.5–2–H–5KW | CES 1–2.5–3–H–5KW | CES 1–2.5–4–H–5KW. | | | | |
| 3 | 2–1.5 T | 2 | 3 | 4 | | | | |
| | | CES 1–3–2–H–5KW | CES 1–3–3–H–5KW | CES 1–3–4–H–5KW. | | | | |
| 4 | 2–2 T | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | CES 2–2–2–H–10KW | CES 2–2–3–H–10KW | CES 2–2–4–H–10KW | CES 2–2–5–H–10KW | CES 2–2–6–H–10KW | CES 2–2–7–H–10KW | CES 2–2–8–H–10KW. |
| 5 | 2–2.5 T | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | CES 2–2.5–2–H–10KW | CES 2–2.5–3–H–10KW | CES 2–2.5–4–H–10KW | CES 2–2.5–5–H–10KW | CES2–2.5–6–H–10KW | CES 2–2.5–7–H–10KW | CES 2–2.5–8–H–10KW. |

Table 1–1 below shows the system combinations of Cascade Indoor Units with the respective outdoor heat units sorted by manufacturer with the associated model number.

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade Manufacturing, L.P. (Cascade) | CES 1–2–2 | 2 | Amana | 1 | ASH130241A. |
| Cascade | CES 1–2–2 | 2 | Aire-Flo | 1 | 2HP13(B,L)24P–1. |
| Cascade | CES 1–2–2 | 2 | AirPro | 1 | FRHS0241CD. |

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER—Continued

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade | CES 1–2–2 | 2 | American Standard | 1 | 2A6B3024A1. |
| Cascade | CES 1–2–2 | 2 | Bryant | 1 | 213ANA024–A. |
| Cascade | CES 1–2–2 | 2 | Carrier | 1 | 25HBA324A30. |
| Cascade | CES 1–2–2 | 2 | Coleman | 1 | DRHS0241BD. |
| Cascade | CES 1–2–2 | 2 | Ducane | 1 | 2HP13(B,L)24P–1. |
| Cascade | CES 1–2–2 | 2 | Fedders | 1 | CH24ABD1VF. |
| Cascade | CES 1–2–2 | 2 | Frigidaire | 1 | FT3BD–024K. |
| Cascade | CES 1–2–2 | 2 | Gibson | 1 | GT3BD–024K. |
| Cascade | CES 1–2–2 | 2 | Goodman | 1 | GSH130241A. |
| Cascade | CES 1–2–2 | 2 | Lennox | 1 | 12HPB24–P. |
| Cascade | CES 1–2–2 | 2 | Luxaire | 1 | EABC–F024S. |
| Cascade | CES 1–2–2 | 2 | Maytag | 1 | PSH1BC024K. |
| Cascade | CES 1–2–2 | 2 | Rheem | 1 | 13PJA24. |
| Cascade | CES 1–2–2 | 2 | Ruud | 1 | 13PJA24. |
| Cascade | CES 1–2–2 | 2 | Tappan | 1 | FT3BD–024K. |
| Cascade | CES 1–2–2 | 2 | Trane | 1 | 2TWB3024A1. |
| Cascade | CES 1–2–2 | 2 | York | 1 | E1RC024S06. |
| Cascade | CES 1–2–2 | 2 | Westinghouse | 1 | FT3BD–024K. |
| Cascade | CES 1–2–2 | 2 | Whirlpool | 1 | W2H324A–1A. |
| Cascade | CES 1–2–3 | 2 | Amana | 1 | ASH130241A. |
| Cascade | CES 1–2–3 | 2 | Aire-Flo | 1 | 2HP13(B,L)24P–1. |
| Cascade | CES 1–2–3 | 2 | AirPro | 1 | FRHS0241CD. |
| Cascade | CES 1–2–3 | 2 | American Standard | 1 | 2A6B3024A1. |
| Cascade | CES 1–2–3 | 2 | Bryant | 1 | 213ANA024–A. |
| Cascade | CES 1–2–3 | 2 | Carrier | 1 | 25HBA324A30. |
| Cascade | CES 1–2–3 | 2 | Coleman | 1 | DRHS0241BD. |
| Cascade | CES 1–2–3 | 2 | Ducane | 1 | 2HP13(B,L)24P–1. |
| Cascade | CES 1–2–3 | 2 | Fedders | 1 | CH24ABD1VF. |
| Cascade | CES 1–2–3 | 2 | Frigidaire | 1 | FT3BD–024K. |
| Cascade | CES 1–2–3 | 2 | Gibson | 1 | GT3BD–024K. |
| Cascade | CES 1–2–3 | 2 | Goodman | 1 | GSH130241A. |
| Cascade | CES 1–2–3 | 2 | Lennox | 1 | 12HPB24–P. |
| Cascade | CES 1–2–3 | 2 | Luxaire | 1 | EABC–F024S. |
| Cascade | CES 1–2–3 | 2 | Maytag | 1 | PSH1BC024K. |
| Cascade | CES 1–2–3 | 2 | Rheem | 1 | 13PJA24. |
| Cascade | CES 1–2–3 | 2 | Ruud | 1 | 13PJA24. |
| Cascade | CES 1–2–3 | 2 | Tappan | 1 | FT3BD–024K. |
| Cascade | CES 1–2–3 | 2 | Trane | 1 | 2TWB3024A1. |
| Cascade | CES 1–2–3 | 2 | York | 1 | E1RC024S06. |
| Cascade | CES 1–2–3 | 2 | Westinghouse | 1 | FT3BD–024K. |
| Cascade | CES 1–2–3 | 2 | Whirlpool | 1 | W2H324A–1A. |
| Cascade | CES 1–2–4 | 2 | Amana | 1 | ASH130241A. |
| Cascade | CES 1–2–4 | 2 | Aire-Flo | 1 | 2HP13(B,L)24P–1. |
| Cascade | CES 1–2–4 | 2 | AirPro | 1 | FRHS0241CD. |
| Cascade | CES 1–2–4 | 2 | American Standard | 1 | 2A6B3024A1. |
| Cascade | CES 1–2–4 | 2 | Bryant | 1 | 213ANA024–A. |
| Cascade | CES 1–2–4 | 2 | Carrier | 1 | 25HBA324A30. |
| Cascade | CES 1–2–4 | 2 | Coleman | 1 | DRHS0241BD. |
| Cascade | CES 1–2–4 | 2 | Ducane | 1 | 2HP13(B,L)24P–1. |
| Cascade | CES 1–2–4 | 2 | Fedders | 1 | CH24ABD1VF. |
| Cascade | CES 1–2–4 | 2 | Frigidaire | 1 | FT3BD–024K. |
| Cascade | CES 1–2–4 | 2 | Gibson | 1 | GT3BD–024K. |
| Cascade | CES 1–2–4 | 2 | Goodman | 1 | GSH130241A. |
| Cascade | CES 1–2–4 | 2 | Lennox | 1 | 12HPB24–P. |
| Cascade | CES 1–2–4 | 2 | Luxaire | 1 | EABC–F024S. |
| Cascade | CES 1–2–4 | 2 | Maytag | 1 | PSH1BC024K. |
| Cascade | CES 1–2–4 | 2 | Rheem | 1 | 13PJA24. |
| Cascade | CES 1–2–4 | 2 | Ruud | 1 | 13PJA24. |
| Cascade | CES 1–2–4 | 2 | Tappan | 1 | FT3BD–024K. |
| Cascade | CES 1–2–4 | 2 | Trane | 1 | 2TWB3024A1. |
| Cascade | CES 1–2–4 | 2 | York | 1 | E1RC024S06. |
| Cascade | CES 1–2–4 | 2 | Westinghouse | 1 | FT3BD–024K. |
| Cascade | CES 1–2–4 | 2 | Whirlpool | 1 | W2H324A–1A. |
| Cascade | CES 1–2.5–2 | 2.5 | Amana | 1 | ASH130301A. |
| Cascade | CES 1–2.5–2 | 2.5 | Aire-Flo | 1 | 2HP13(B,L)30P–1. |
| Cascade | CES 1–2.5–2 | 2.5 | AirPro | 1 | FRHS0301CD. |
| Cascade | CES 1–2.5–2 | 2.5 | American Standard | 1 | 2A6B3030A1. |
| Cascade | CES 1–2.5–2 | 2.5 | Bryant | 1 | 213ANA030–A. |

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER—Continued

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Carrier | 1 | 25HBA330A30. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Coleman | 1 | DRHS0301BD. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Ducane | 1 | 2HP13(B,L)30P–1. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Fedders | 1 | CH30ABD1VF. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Frigidaire | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Gibson | 1 | GT3BD–030K. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Goodman | 1 | CPLT30–1. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Lennox | 1 | 12HPB30–P. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Luxaire | 1 | EABC–F030S. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Maytag | 1 | DT3BD–030K. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Rheem | 1 | 13PJA30. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Ruud | 1 | 13PJA30. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Tappan | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Trane | 1 | 2TWB3030A1. |
| Cascade | CES 1–2.5–2 .... | 2.5 | York | 1 | E1RC030S06. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Westinghouse | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–2 .... | 2.5 | Whirlpool | 1 | WGH430A. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Amana | 1 | ASH130301A. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Aire-Flo | 1 | 2HP13(B,L)30P–1. |
| Cascade | CES 1–2.5–3 .... | 2.5 | AirPro | 1 | FRHS0301CD. |
| Cascade | CES 1–2.5–3 .... | 2.5 | American Standard | 1 | 2A6B3030A1. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Bryant | 1 | 213ANA030–A. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Carrier | 1 | 25HBA330A30. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Coleman | 1 | DRHS0301BD. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Ducane | 1 | 2HP13(B,L)30P–1. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Fedders | 1 | CH30ABD1VF. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Frigidaire | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Gibson | 1 | GT3BD–030K. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Goodman | 1 | CPLT30–1. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Lennox | 1 | 12HPB30–P. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Luxaire | 1 | EABC–F030S. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Maytag | 1 | DT3BD–030K. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Rheem | 1 | 13PJA30. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Ruud | 1 | 13PJA30. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Tappan | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Trane | 1 | 2TWB3030A1. |
| Cascade | CES 1–2.5–3 .... | 2.5 | York | 1 | E1RC030S06. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Westinghouse | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–3 .... | 2.5 | Whirlpool | 1 | WGH430A. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Amana | 1 | ASH130301A. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Aire-Flo | 1 | 2HP13(B,L)30P–1. |
| Cascade | CES 1–2.5–4 .... | 2.5 | AirPro | 1 | FRHS0301CD. |
| Cascade | CES 1–2.5–4 .... | 2.5 | American Standard | 1 | 2A6B3030A1. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Bryant | 1 | 213ANA030–A. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Carrier | 1 | 25HBA330A30. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Coleman | 1 | DRHS0301BD. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Ducane | 1 | 2HP13(B,L)30P–1. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Fedders | 1 | CH30ABD1VF. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Frigidaire | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Gibson | 1 | GT3BD–030K. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Goodman | 1 | CPLT30–1. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Lennox | 1 | 12HPB30–P. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Luxaire | 1 | EABC–F030S. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Maytag | 1 | DT3BD–030K. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Rheem | 1 | 13PJA30. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Ruud | 1 | 13PJA30. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Tappan | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Trane | 1 | 2TWB3030A1. |
| Cascade | CES 1–2.5–4 .... | 2.5 | York | 1 | E1RC030S06. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Westinghouse | 1 | FT3BD–030K. |
| Cascade | CES 1–2.5–4 .... | 2.5 | Whirlpool | 1 | WGH430A. |
| Cascade | CES–2–1.5–2 ... | 3 | Amana | 2 | ASH130181A. |
| Cascade | CES–2–1.5–2 ... | 3 | Aire-Flo | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–1.5–2 ... | 3 | AirPro | 2 | DRHS0181BD. |
| Cascade | CES–2–1.5–2 ... | 3 | American Standard | 2 | 2A6B3018A1. |
| Cascade | CES–2–1.5–2 ... | 3 | Bryant | 2 | 213ANA018–A. |
| Cascade | CES–2–1.5–2 ... | 3 | Carrier | 2 | 25HBA318A30. |
| Cascade | CES–2–1.5–2 ... | 3 | Coleman | 2 | DRHS0181BD. |

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER—Continued

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade | CES–2–1.5–2 ... | 3 | Ducane | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–1.5–2 ... | 3 | Fedders | 2 | CH18ABD1VF. |
| Cascade | CES–2–1.5–2 ... | 3 | Frigidaire | 2 | FT3BD–018K. |
| Cascade | CES–2–1.5–2 ... | 3 | Gibson | 2 | GT3BD–018K. |
| Cascade | CES–2–1.5–2 ... | 3 | Goodman | 2 | GSH130181A. |
| Cascade | CES–2–1.5–2 ... | 3 | Lennox | 2 | 12HPB18–P. |
| Cascade | CES–2–1.5–2 ... | 3 | Luxaire | 2 | EABC–F018S. |
| Cascade | CES–2–1.5–2 ... | 3 | Maytag | 2 | DT5BD–018K. |
| Cascade | CES–2–1.5–2 ... | 3 | Rheem | 2 | 13PJA18. |
| Cascade | CES–2–1.5–2 ... | 3 | Ruud | 2 | UPNE–018JZ. |
| Cascade | CES–2–1.5–2 ... | 3 | Tappan | 2 | FT3BD–018K. |
| Cascade | CES–2–1.5–2 ... | 3 | Trane | 2 | 2TWB3018A1. |
| Cascade | CES–2–1.5–2 ... | 3 | York | 2 | E1RC018S06. |
| Cascade | CES–2–1.5–2 ... | 3 | Westinghouse | 2 | W2H318A–1A. |
| Cascade | CES–2–1.5–2 ... | 3 | Whirlpool | 2 | W2H318A–1A. |
| Cascade | CES–2–1.5–3 ... | 3 | Amana | 2 | ASH130181A. |
| Cascade | CES–2–1.5–3 ... | 3 | Aire-Flo | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–1.5–3 ... | 3 | AirPro | 2 | DRHS0181BD. |
| Cascade | CES–2–1.5–3 ... | 3 | American Standard | 2 | 2A6B3018A1. |
| Cascade | CES–2–1.5–3 ... | 3 | Bryant | 2 | 213ANA018–A. |
| Cascade | CES–2–1.5–3 ... | 3 | Carrier | 2 | 25HBA318A30. |
| Cascade | CES–2–1.5–3 ... | 3 | Coleman | 2 | DRHS0181BD. |
| Cascade | CES–2–1.5–3 ... | 3 | Ducane | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–1.5–3 ... | 3 | Fedders | 2 | CH18ABD1VF. |
| Cascade | CES–2–1.5–3 ... | 3 | Frigidaire | 2 | FT3BD–018K. |
| Cascade | CES–2–1.5–3 ... | 3 | Gibson | 2 | GT3BD–018K. |
| Cascade | CES–2–1.5–3 ... | 3 | Goodman | 2 | GSH130181A. |
| Cascade | CES–2–1.5–3 ... | 3 | Lennox | 2 | 12HPB18–P. |
| Cascade | CES–2–1.5–3 ... | 3 | Luxaire | 2 | EABC–F018S. |
| Cascade | CES–2–1.5–3 ... | 3 | Maytag | 2 | DT5BD–018K. |
| Cascade | CES–2–1.5–3 ... | 3 | Rheem | 2 | 13PJA18. |
| Cascade | CES–2–1.5–3 ... | 3 | Ruud | 2 | UPNE–018JZ. |
| Cascade | CES–2–1.5–3 ... | 3 | Tappan | 2 | FT3BD–018K. |
| Cascade | CES–2–1.5–3 ... | 3 | Trane | 2 | 2TWB3018A1. |
| Cascade | CES–2–1.5–3 ... | 3 | York | 2 | E1RC018S06. |
| Cascade | CES–2–1.5–3 ... | 3 | Westinghouse | 2 | W2H318A–1A. |
| Cascade | CES–2–1.5–3 ... | 3 | Whirlpool | 2 | W2H318A–1A. |
| Cascade | CES–2–1.5–4 ... | 3 | Amana | 2 | ASH130181A. |
| Cascade | CES–2–1.5–4 ... | 3 | Aire-Flo | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–1.5–4 ... | 3 | AirPro | 2 | DRHS0181BD. |
| Cascade | CES–2–1.5–4 ... | 3 | American Standard | 2 | 2A6B3018A1. |
| Cascade | CES–2–1.5–4 ... | 3 | Bryant | 2 | 213ANA018–A. |
| Cascade | CES–2–1.5–4 ... | 3 | Carrier | 2 | 25HBA318A30. |
| Cascade | CES–2–1.5–4 ... | 3 | Coleman | 2 | DRHS0181BD. |
| Cascade | CES–2–1.5–4 ... | 3 | Ducane | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–1.5–4 ... | 3 | Fedders | 2 | CH18ABD1VF. |
| Cascade | CES–2–1.5–4 ... | 3 | Frigidaire | 2 | FT3BD–018K. |
| Cascade | CES–2–1.5–4 ... | 3 | Gibson | 2 | GT3BD–018K. |
| Cascade | CES–2–1.5–4 ... | 3 | Goodman | 2 | GSH130181A. |
| Cascade | CES–2–1.5–4 ... | 3 | Lennox | 2 | 12HPB18–P. |
| Cascade | CES–2–1.5–4 ... | 3 | Luxaire | 2 | EABC–F018S. |
| Cascade | CES–2–1.5–4 ... | 3 | Maytag | 2 | DT5BD–018K. |
| Cascade | CES–2–1.5–4 ... | 3 | Rheem | 2 | 13PJA18. |
| Cascade | CES–2–1.5–4 ... | 3 | Ruud | 2 | UPNE–018JZ. |
| Cascade | CES–2–1.5–4 ... | 3 | Tappan | 2 | FT3BD–018K. |
| Cascade | CES–2–1.5–4 ... | 3 | Trane | 2 | 2TWB3018A1. |
| Cascade | CES–2–1.5–4 ... | 3 | York | 2 | E1RC018S06. |
| Cascade | CES–2–1.5–4 ... | 3 | Westinghouse | 2 | W2H318A–1A. |
| Cascade | CES–2–1.5–4 ... | 3 | Whirlpool | 2 | W2H318A–1A. |
| Cascade | CES–2–2–2 ..... | 4 | Amana | 2 | ASH130241A. |
| Cascade | CES–2–2–2 ..... | 4 | Aire-Flo | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–2 ..... | 4 | AirPro | 2 | DRHS0241BD. |
| Cascade | CES–2–2–2 ..... | 4 | American Standard | 2 | 2A6B3024A1. |
| Cascade | CES–2–2–2 ..... | 4 | Bryant | 2 | 213ANA024–A. |
| Cascade | CES–2–2–2 ..... | 4 | Carrier | 2 | 25HBA324A30. |
| Cascade | CES–2–2–2 ..... | 4 | Coleman | 2 | DRHS0241BD. |
| Cascade | CES–2–2–2 ..... | 4 | Ducane | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–2–2 ..... | 4 | Fedders | 2 | CH24ABD1VF. |

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER—Continued

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade | CES–2–2–2 | 4 | Frigidaire | 2 | FT3BD–024K. |
| Cascade | CES–2–2–2 | 4 | Gibson | 2 | GT3BD–024K. |
| Cascade | CES–2–2–2 | 4 | Goodman | 2 | GSH130241A. |
| Cascade | CES–2–2–2 | 4 | Lennox | 2 | 12HPB24–P. |
| Cascade | CES–2–2–2 | 4 | Luxaire | 2 | EABC–F024S. |
| Cascade | CES–2–2–2 | 4 | Maytag | 2 | DT3BD–024K. |
| Cascade | CES–2–2–2 | 4 | Rheem | 2 | 13PJA24. |
| Cascade | CES–2–2–2 | 4 | Ruud | 2 | 13PJA24. |
| Cascade | CES–2–2–2 | 4 | Tappan | 2 | FT3BD–024K. |
| Cascade | CES–2–2–2 | 4 | Trane | 2 | 2TWB3024A1. |
| Cascade | CES–2–2–2 | 4 | York | 2 | E1RC024S06. |
| Cascade | CES–2–2–2 | 4 | Westinghouse | 2 | FT3BD–024K. |
| Cascade | CES–2–2–2 | 4 | Whirlpool | 2 | W2H324A–1A. |
| Cascade | CES–2–2–3 | 4 | Amana | 2 | ASH130241A. |
| Cascade | CES–2–2–3 | 4 | Aire-Flo | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–3 | 4 | AirPro | 2 | FRHS0241CD. |
| Cascade | CES–2–2–3 | 4 | American Standard | 2 | 2A6B3024A1. |
| Cascade | CES–2–2–3 | 4 | Bryant | 2 | 213ANA024–A. |
| Cascade | CES–2–2–3 | 4 | Carrier | 2 | 25HBA324A30. |
| Cascade | CES–2–2–3 | 4 | Coleman | 2 | DRHS0241BD. |
| Cascade | CES–2–2–3 | 4 | Ducane | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–2–3 | 4 | Fedders | 2 | CH24ABD1VF. |
| Cascade | CES–2–2–3 | 4 | Frigidaire | 2 | FT3BD–024K. |
| Cascade | CES–2–2–3 | 4 | Gibson | 2 | GT3BD–024K. |
| Cascade | CES–2–2–3 | 4 | Goodman | 2 | GSH130241A. |
| Cascade | CES–2–2–3 | 4 | Lennox | 2 | 12HPB24–P. |
| Cascade | CES–2–2–3 | 4 | Luxaire | 2 | EABC–F024S. |
| Cascade | CES–2–2–3 | 4 | Maytag | 2 | DT3BD–024K. |
| Cascade | CES–2–2–3 | 4 | Rheem | 2 | 13PJA24. |
| Cascade | CES–2–2–3 | 4 | Ruud | 2 | 13PJA24. |
| Cascade | CES–2–2–3 | 4 | Tappan | 2 | FT3BD–024K. |
| Cascade | CES–2–2–3 | 4 | Trane | 2 | 2TWB3024A1. |
| Cascade | CES–2–2–3 | 4 | York | 2 | E1RC024S06. |
| Cascade | CES–2–2–3 | 4 | Westinghouse | 2 | FT3BD–024K. |
| Cascade | CES–2–2–3 | 4 | Whirlpool | 2 | W2H324A–1A. |
| Cascade | CES–2–2–4 | 4 | Amana | 2 | ASH130241A. |
| Cascade | CES–2–2–4 | 4 | Aire-Flo | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–4 | 4 | AirPro | 2 | FRHS0241CD. |
| Cascade | CES–2–2–4 | 4 | American Standard | 2 | 2A6B3024A1. |
| Cascade | CES–2–2–4 | 4 | Bryant | 2 | 213ANA024–A. |
| Cascade | CES–2–2–4 | 4 | Carrier | 2 | 25HBA324A30. |
| Cascade | CES–2–2–4 | 4 | Coleman | 2 | DRHS0241BD. |
| Cascade | CES–2–2–4 | 4 | Ducane | 2 | 2HP13(B,L)18P–1. |
| Cascade | CES–2–2–4 | 4 | Fedders | 2 | CH24ABD1VF. |
| Cascade | CES–2–2–4 | 4 | Frigidaire | 2 | FT3BD–024K. |
| Cascade | CES–2–2–4 | 4 | Gibson | 2 | GT3BD–024K. |
| Cascade | CES–2–2–4 | 4 | Goodman | 2 | GSH130241A. |
| Cascade | CES–2–2–4 | 4 | Lennox | 2 | 12HPB24–P. |
| Cascade | CES–2–2–4 | 4 | Luxaire | 2 | EABC–F024S. |
| Cascade | CES–2–2–4 | 4 | Maytag | 2 | DT3BD–024K. |
| Cascade | CES–2–2–4 | 4 | Rheem | 2 | 13PJA24. |
| Cascade | CES–2–2–4 | 4 | Ruud | 2 | 13PJA24. |
| Cascade | CES–2–2–4 | 4 | Tappan | 2 | FT3BD–024K. |
| Cascade | CES–2–2–4 | 4 | Trane | 2 | 2TWB3024A1. |
| Cascade | CES–2–2–4 | 4 | York | 2 | E1RC024S06. |
| Cascade | CES–2–2–4 | 4 | Westinghouse | 2 | FT3BD–024K. |
| Cascade | CES–2–2–4 | 4 | Whirlpool | 2 | W2H324A–1A. |
| Cascade | CES–2–2–5 | 4 | Amana | 2 | ASH130241A. |
| Cascade | CES–2–2–5 | 4 | Aire-Flo | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–5 | 4 | AirPro | 2 | FRHS0241CD. |
| Cascade | CES–2–2–5 | 4 | American Standard | 2 | 2A6B3024A1. |
| Cascade | CES–2–2–5 | 4 | Bryant | 2 | 213ANA024–A. |
| Cascade | CES–2–2–5 | 4 | Carrier | 2 | 25HBA324A30. |
| Cascade | CES–2–2–5 | 4 | Coleman | 2 | DRHS0241BD. |
| Cascade | CES–2–2–5 | 4 | Ducane | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–5 | 4 | Fedders | 2 | CH24ABD1VF. |
| Cascade | CES–2–2–5 | 4 | Frigidaire | 2 | FT3BD–024K. |
| Cascade | CES–2–2–5 | 4 | Gibson | 2 | GT3BD–024K. |

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER—Continued

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade | CES–2–2–5 | 4 | Goodman | 2 | GSH130241A. |
| Cascade | CES–2–2–5 | 4 | Lennox | 2 | 12HPB24–P. |
| Cascade | CES–2–2–5 | 4 | Luxaire | 2 | EABC–F024S. |
| Cascade | CES–2–2–5 | 4 | Maytag | 2 | DT3BD–024K. |
| Cascade | CES–2–2–5 | 4 | Rheem | 2 | 13PJA24. |
| Cascade | CES–2–2–5 | 4 | Ruud | 2 | 13PJA24. |
| Cascade | CES–2–2–5 | 4 | Tappan | 2 | FT3BD–024K. |
| Cascade | CES–2–2–5 | 4 | Trane | 2 | 2TWB3024A1. |
| Cascade | CES–2–2–5 | 4 | York | 2 | E1RC024S06. |
| Cascade | CES–2–2–5 | 4 | Westinghouse | 2 | FT3BD–024K. |
| Cascade | CES–2–2–5 | 4 | Whirlpool | 2 | W2H324A–1A. |
| Cascade | CES–2–2–6 | 4 | Amana | 2 | ASH130241A. |
| Cascade | CES–2–2–6 | 4 | Aire-Flo | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–6 | 4 | AirPro | 2 | FRHS0241CD. |
| Cascade | CES–2–2–6 | 4 | American Standard | 2 | 2A6B3024A1. |
| Cascade | CES–2–2–6 | 4 | Bryant | 2 | 213ANA024–A. |
| Cascade | CES–2–2–6 | 4 | Carrier | 2 | 25HBA324A30. |
| Cascade | CES–2–2–6 | 4 | Coleman | 2 | DRHS0241BD. |
| Cascade | CES–2–2–6 | 4 | Ducane | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–6 | 4 | Fedders | 2 | CH24ABD1VF. |
| Cascade | CES–2–2–6 | 4 | Frigidaire | 2 | FT3BD–024K. |
| Cascade | CES–2–2–6 | 4 | Gibson | 2 | GT3BD–024K. |
| Cascade | CES–2–2–6 | 4 | Goodman | 2 | GSH130241A. |
| Cascade | CES–2–2–6 | 4 | Lennox | 2 | 12HPB24–P. |
| Cascade | CES–2–2–6 | 4 | Luxaire | 2 | EABC–F024S. |
| Cascade | CES–2–2–6 | 4 | Maytag | 2 | DT3BD–024K. |
| Cascade | CES–2–2–6 | 4 | Rheem | 2 | 13PJA24. |
| Cascade | CES–2–2–6 | 4 | Ruud | 2 | 13PJA24. |
| Cascade | CES–2–2–6 | 4 | Tappan | 2 | FT3BD–024K. |
| Cascade | CES–2–2–6 | 4 | Trane | 2 | 2TWB3024A1. |
| Cascade | CES–2–2–6 | 4 | York | 2 | E1RC024S06. |
| Cascade | CES–2–2–6 | 4 | Westinghouse | 2 | FT3BD–024K. |
| Cascade | CES–2–2–6 | 4 | Whirlpool | 2 | W2H324A–1A. |
| Cascade | CES–2–2–7 | 4 | Amana | 2 | ASH130241A. |
| Cascade | CES–2–2–7 | 4 | Aire-Flo | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–7 | 4 | AirPro | 2 | FRHS0241CD. |
| Cascade | CES–2–2–7 | 4 | American Standard | 2 | 2A6B3024A1. |
| Cascade | CES–2–2–7 | 4 | Bryant | 2 | 213ANA024–A. |
| Cascade | CES–2–2–7 | 4 | Carrier | 2 | 25HBA324A30. |
| Cascade | CES–2–2–7 | 4 | Coleman | 2 | DRHS0241BD. |
| Cascade | CES–2–2–7 | 4 | Ducane | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–7 | 4 | Fedders | 2 | CH24ABD1VF. |
| Cascade | CES–2–2–7 | 4 | Frigidaire | 2 | FT3BD–024K. |
| Cascade | CES–2–2–7 | 4 | Gibson | 2 | GT3BD–024K. |
| Cascade | CES–2–2–7 | 4 | Goodman | 2 | GSH130241A. |
| Cascade | CES–2–2–7 | 4 | Lennox | 2 | 12HPB24–P. |
| Cascade | CES–2–2–7 | 4 | Luxaire | 2 | EABC–F024S. |
| Cascade | CES–2–2–7 | 4 | Maytag | 2 | DT3BD–024K. |
| Cascade | CES–2–2–7 | 4 | Rheem | 2 | 13PJA24. |
| Cascade | CES–2–2–7 | 4 | Ruud | 2 | 13PJA24. |
| Cascade | CES–2–2–7 | 4 | Tappan | 2 | FT3BD–024K. |
| Cascade | CES–2–2–7 | 4 | Trane | 2 | 2TWB3024A1. |
| Cascade | CES–2–2–7 | 4 | York | 2 | E1RC024S06. |
| Cascade | CES–2–2–7 | 4 | Westinghouse | 2 | FT3BD–024K. |
| Cascade | CES–2–2–7 | 4 | Whirlpool | 2 | W2H324A–1A. |
| Cascade | CES–2–2–8 | 4 | Amana | 2 | ASH130241A. |
| Cascade | CES–2–2–8 | 4 | Aire-Flo | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–8 | 4 | AirPro | 2 | FRHS0241CD. |
| Cascade | CES–2–2–8 | 4 | American Standard | 2 | 2A6B3024A1. |
| Cascade | CES–2–2–8 | 4 | Bryant | 2 | 213ANA024–A. |
| Cascade | CES–2–2–8 | 4 | Carrier | 2 | 25HBA324A30. |
| Cascade | CES–2–2–8 | 4 | Coleman | 2 | DRHS0241BD. |
| Cascade | CES–2–2–8 | 4 | Ducane | 2 | 2HP13(B,L)24P–1. |
| Cascade | CES–2–2–8 | 4 | Fedders | 2 | CH24ABD1VF. |
| Cascade | CES–2–2–8 | 4 | Frigidaire | 2 | FT3BD–024K. |
| Cascade | CES–2–2–8 | 4 | Gibson | 2 | GT3BD–024K. |
| Cascade | CES–2–2–8 | 4 | Goodman | 2 | GSH130241A. |
| Cascade | CES–2–2–8 | 4 | Lennox | 2 | 12HPB24–P. |

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER—Continued

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade | CES–2–2–8 | 4 | Luxaire | 2 | EABC–F024S. |
| Cascade | CES–2–2–8 | 4 | Maytag | 2 | DT3BD–024K. |
| Cascade | CES–2–2–8 | 4 | Rheem | 2 | 13PJA24. |
| Cascade | CES–2–2–8 | 4 | Ruud | 2 | 13PJA24. |
| Cascade | CES–2–2–8 | 4 | Tappan | 2 | FT3BD–024K. |
| Cascade | CES–2–2–8 | 4 | Trane | 2 | 2TWB3024A1. |
| Cascade | CES–2–2–8 | 4 | York | 2 | E1RC024S06. |
| Cascade | CES–2–2–8 | 4 | Westinghouse | 2 | FT3BD–024K. |
| Cascade | CES–2–2–8 | 4 | Whirlpool | 2 | W2H324A–1A. |
| Cascade | CES–2–2.5–4 | 5 | Amana | 2 | ASH130301A. |
| Cascade | CES–2–2.5–4 | 5 | Aire-Flo | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–4 | 5 | AirPro | 2 | FRHS0301CD. |
| Cascade | CES–2–2.5–4 | 5 | American Standard | 2 | 2A6B3030A1. |
| Cascade | CES–2–2.5–4 | 5 | Bryant | 2 | 213ANA030–A. |
| Cascade | CES–2–2.5–4 | 5 | Carrier | 2 | 25HBA330A30. |
| Cascade | CES–2–2.5–4 | 5 | Coleman | 2 | DRHS0301BD. |
| Cascade | CES–2–2.5–4 | 5 | Ducane | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–4 | 5 | Fedders | 2 | CH30ABD1VF. |
| Cascade | CES–2–2.5–4 | 5 | Frigidaire | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–4 | 5 | Gibson | 2 | GT3BD–030K. |
| Cascade | CES–2–2.5–4 | 5 | Goodman | 2 | CPLT30–1. |
| Cascade | CES–2–2.5–4 | 5 | Lennox | 2 | 12HPB30–P. |
| Cascade | CES–2–2.5–4 | 5 | Luxaire | 2 | EABC–F030S. |
| Cascade | CES–2–2.5–4 | 5 | Maytag | 2 | DT3BD–030K. |
| Cascade | CES–2–2.5–4 | 5 | Rheem | 2 | 13PJA30. |
| Cascade | CES–2–2.5–4 | 5 | Ruud | 2 | 13PJA30. |
| Cascade | CES–2–2.5–4 | 5 | Tappan | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–4 | 5 | Trane | 2 | 2TWB3030A1. |
| Cascade | CES–2–2.5–4 | 5 | York | 2 | E1RC030S06. |
| Cascade | CES–2–2.5–4 | 5 | Westinghouse | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–4 | 5 | Whirlpool | 2 | WGH430A. |
| Cascade | CES–2–2.5–5 | 5 | Amana | 2 | ASH130301A. |
| Cascade | CES–2–2.5–5 | 5 | Aire-Flo | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–5 | 5 | AirPro | 2 | FRHS0301CD. |
| Cascade | CES–2–2.5–5 | 5 | American Standard | 2 | 2A6B3030A1. |
| Cascade | CES–2–2.5–5 | 5 | Bryant | 2 | 213ANA030–A. |
| Cascade | CES–2–2.5–5 | 5 | Carrier | 2 | 25HBA330A30. |
| Cascade | CES–2–2.5–5 | 5 | Coleman | 2 | DRHS0301BD. |
| Cascade | CES–2–2.5–5 | 5 | Ducane | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–5 | 5 | Fedders | 2 | CH30ABD1VF. |
| Cascade | CES–2–2.5–5 | 5 | Frigidaire | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–5 | 5 | Gibson | 2 | GT3BD–030K. |
| Cascade | CES–2–2.5–5 | 5 | Goodman | 2 | CPLT30–1. |
| Cascade | CES–2–2.5–5 | 5 | Lennox | 2 | 12HPB30–P. |
| Cascade | CES–2–2.5–5 | 5 | Luxaire | 2 | EABC–F030S. |
| Cascade | CES–2–2.5–5 | 5 | Maytag | 2 | DT3BD–030K. |
| Cascade | CES–2–2.5–5 | 5 | Rheem | 2 | 13PJA30. |
| Cascade | CES–2–2.5–5 | 5 | Ruud | 2 | 13PJA30. |
| Cascade | CES–2–2.5–5 | 5 | Tappan | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–5 | 5 | Trane | 2 | 2TWB3030A1. |
| Cascade | CES–2–2.5–5 | 5 | York | 2 | E1RC030S06. |
| Cascade | CES–2–2.5–5 | 5 | Westinghouse | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–5 | 5 | Whirlpool | 2 | WGH430A. |
| Cascade | CES–2–2.5–6 | 5 | Amana | 2 | ASH130301A. |
| Cascade | CES–2–2.5–6 | 5 | Aire-Flo | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–6 | 5 | AirPro | 2 | FRHS0301CD. |
| Cascade | CES–2–2.5–6 | 5 | American Standard | 2 | 2A6B3030A1. |
| Cascade | CES–2–2.5–6 | 5 | Bryant | 2 | 213ANA030–A. |
| Cascade | CES–2–2.5–6 | 5 | Carrier | 2 | 25HBA330A30. |
| Cascade | CES–2–2.5–6 | 5 | Coleman | 2 | DRHS0301BD. |
| Cascade | CES–2–2.5–6 | 5 | Ducane | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–6 | 5 | Fedders | 2 | CH30ABD1VF. |
| Cascade | CES–2–2.5–6 | 5 | Frigidaire | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–6 | 5 | Gibson | 2 | GT3BD–030K. |
| Cascade | CES–2–2.5–6 | 5 | Goodman | 2 | CPLT30–1. |
| Cascade | CES–2–2.5–6 | 5 | Lennox | 2 | 12HPB30–P. |
| Cascade | CES–2–2.5–6 | 5 | Luxaire | 2 | EABC–F030S. |
| Cascade | CES–2–2.5–6 | 5 | Maytag | 2 | DT3BD–030K. |

TABLE 1–1.—COMBINATIONS OF INDOOR-OUTDOOR UNITS THAT ARE SUBJECT TO THE WAIVER—Continued

| Indoor unit | | | Outdoor unit | | |
|---|---|---|---|---|---|
| Manufacturer | Cascade model | Tons | System heat pump manufacturer | Qty of outside units per cascade unit | Model No. |
| Cascade | CES–2–2.5–6 ... | 5 | Rheem | 2 | 13PJA30. |
| Cascade | CES–2–2.5–6 ... | 5 | Ruud | 2 | 13PJA30. |
| Cascade | CES–2–2.5–6 ... | 5 | Tappan | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–6 ... | 5 | Trane | 2 | 2TWB3030A1. |
| Cascade | CES–2–2.5–6 ... | 5 | York | 2 | E1RC030S06. |
| Cascade | CES–2–2.5–6 ... | 5 | Westinghouse | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–6 ... | 5 | Whirlpool | 2 | WGH430A. |
| Cascade | CES–2–2.5–7 ... | 5 | Amana | 2 | ASH130301A. |
| Cascade | CES–2–2.5–7 ... | 5 | Aire-Flo | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–7 ... | 5 | AirPro | 2 | FRHS0301CD. |
| Cascade | CES–2–2.5–7 ... | 5 | American Standard | 2 | 2A6B3030A1. |
| Cascade | CES–2–2.5–7 ... | 5 | Bryant | 2 | 213ANA030–A. |
| Cascade | CES–2–2.5–7 ... | 5 | Carrier | 2 | 25HBA330A30. |
| Cascade | CES–2–2.5–7 ... | 5 | Coleman | 2 | DRHS0301BD. |
| Cascade | CES–2–2.5–7 ... | 5 | Ducane | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–7 ... | 5 | Fedders | 2 | CH30ABD1VF. |
| Cascade | CES–2–2.5–7 ... | 5 | Frigidaire | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–7 ... | 5 | Gibson | 2 | GT3BD–030K. |
| Cascade | CES–2–2.5–7 ... | 5 | Goodman | 2 | CPLT30–1. |
| Cascade | CES–2–2.5–7 ... | 5 | Lennox | 2 | 12HPB30–P. |
| Cascade | CES–2–2.5–7 ... | 5 | Luxaire | 2 | EABC–F030S. |
| Cascade | CES–2–2.5–7 ... | 5 | Maytag | 2 | DT3BD–030K. |
| Cascade | CES–2–2.5–7 ... | 5 | Rheem | 2 | 13PJA30. |
| Cascade | CES–2–2.5–7 ... | 5 | Ruud | 2 | 13PJA30. |
| Cascade | CES–2–2.5–7 ... | 5 | Tappan | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–7 ... | 5 | Trane | 2 | 2TWB3030A1. |
| Cascade | CES–2–2.5–7 ... | 5 | York | 2 | E1RC030S06. |
| Cascade | CES–2–2.5–7 ... | 5 | Westinghouse | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–7 ... | 5 | Whirlpool | 2 | WGH430A. |
| Cascade | CES–2–2.5–8 ... | 5 | Amana | 2 | ASH130301A. |
| Cascade | CES–2–2.5–8 ... | 5 | Aire-Flo | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–8 ... | 5 | AirPro | 2 | FRHS0301CD. |
| Cascade | CES–2–2.5–8 ... | 5 | American Standard | 2 | 2A6B3030A1. |
| Cascade | CES–2–2.5–8 ... | 5 | Bryant | 2 | 213ANA030–A. |
| Cascade | CES–2–2.5–8 ... | 5 | Carrier | 2 | 25HBA330A30. |
| Cascade | CES–2–2.5–8 ... | 5 | Coleman | 2 | DRHS0301BD. |
| Cascade | CES–2–2.5–8 ... | 5 | Ducane | 2 | 2HP13(B,L)30P–1. |
| Cascade | CES–2–2.5–8 ... | 5 | Fedders | 2 | CH30ABD1VF. |
| Cascade | CES–2–2.5–8 ... | 5 | Frigidaire | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–8 ... | 5 | Gibson | 2 | GT3BD–030K. |
| Cascade | CES–2–2.5–8 ... | 5 | Goodman | 2 | CPLT30–1. |
| Cascade | CES–2–2.5–8 ... | 5 | Lennox | 2 | 12HPB30–P. |
| Cascade | CES–2–2.5–8 ... | 5 | Luxaire | 2 | EABC–F030S. |
| Cascade | CES–2–2.5–8 ... | 5 | Maytag | 2 | DT3BD–030K. |
| Cascade | CES–2–2.5–8 ... | 5 | Rheem | 2 | 13PJA30. |
| Cascade | CES–2–2.5–8 ... | 5 | Ruud | 2 | 13PJA30. |
| Cascade | CES–2–2.5–8 ... | 5 | Tappan | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–8 ... | 5 | Trane | 2 | 2TWB3030A1. |
| Cascade | CES–2–2.5–8 ... | 5 | York | 2 | E1RC030S06. |
| Cascade | CES–2–2.5–8 ... | 5 | Westinghouse | 2 | FT3BD–030K. |
| Cascade | CES–2–2.5–8 ... | 5 | Whirlpool | 2 | WGH430A. |

**Design Characteristics Constituting the Grounds for Petition**

The United States Department of Energy has designated the American Refrigeration Institute (ARI) as the body of air conditioning industry partners to develop and maintain standards for compliance to the National Appliance Energy Conservation Act of 1987 (NAECA). (10 CFR 430). The two standards that were developed by ARI that are applicable to the CES are the ARI 210/240 and ARI 340/360.

ARI 210/240 is the standard that certifies the performance of units that are 65,000 Btu/hr or less. Currently, this standard requires that a split system heat pump meet a minimum SEER of 10. The standard also stipulates that it meet the maximum standard airflow rate of 37.5 CFM/1000Btu/hr. This CFM is assumed to be applicable to the indoor unit that has only one blower-motor. The CES unit does not fit this model in that the indoor blower-motor combinations can range from 2 to 8 indoor blower-motors that are independently operating. Thus a waiver is sought since the current procedures for testing do not apply.

This request for a waiver will include SEER calculations that are the result of live data for a multi-indoor blower-motor configuration, those specific procedures followed during the test, the data in the test were conducted by the Texas A&M University Energy Services

Laboratory (TAMU–ESL) by Michael Davis under the supervision of Dr. Dennis O'Neal, Dean of Mechanical Engineering, Texas A&M University.

The following results show that under ARI 210/240 conditions, connecting the CES 5ton-8 zone unit to an Amana RHF030 heat pump with an SEER of 12–14 (dependant on the indoor blower-coil for the rating) produced an SEER value based on the calculations of 18.1 and an HSPF of 9.5. This is a 29% savings on cooling Seasonal energy efficiency Ratio and a 19% increase over the heating seasonal efficiency ratio.

The ''Results of Heating and Cooling Performance Testing of Cascade Energy Saver™'' report from Texas A&M is attached in the Appendix A.

**Specific Requirements Sought To Be Waived**

Cascade requests a waiver by this petition from the procedures of ARI210/240 for models that are 65000Btu/h and smaller because the Cascade Manufacturing indoor blower coil models have more than one blower per coil and up to and as many as eight blowers. Thus, it does not conform to the test procedures of ARI 210/240, which are based solely on one single indoor-coil blower. We have proven with laboratory tests that an enhanced multi-blower fan coil is efficient and that by slight modifications to the current ARI 210/240 procedures, Cascade Energy Saver units can be tested and the results will show that the SEER and HSPF are easily measurable.

Pursuant to the purchase of the CES, Cascade seeks to be a viable and profitable business concern and therefor desires to implement its business plan for manufacturing and distribution of mass quantities of the CES units in the various models and sizes to the general public within the United States. To effectuate the manufacturing and distribution, Cascade has entered into certain agreements with United Chester Industries, Inc. dba United Mechanical, Inc., an existing mechanical contractor with manufacturing and distribution capabilities.

Cascade seeks immediate relief through this waiver to avert undo economic hardship.

**Discussion in Details for the Requested Waiver**

Concerning ARI 210/240

1. The ARI 210/240 test procedure does not take into account indoor blower coils with more than one indoor blower and motor. The Cascade Energy Saver indoor coil-blower is thus a deviation from the ARI 210/240 model. This design is what Cascade believes will be product to fill a market niche and that the consumer with find huge energy saving benefits.

Cascade contracted with TAMU–ESL to perform the ARI 210/240 testing comprised of two operating conditions, namely with 2 variations/combinations of indoor blowers and outdoor heat pumps, in order to demonstrate that the efficiencies are within the acceptable values of the NAECA, namely, SEER, COP, HSPF.

2. In addition to the data, the assumptions, the test conditions, the procedures followed by TAMU–ESL are all included in the report from TAMU–ESL.

3. These procedures are the means by which the Cascade CES units will meet the standards as set forth by the NEACA of 1987. Once reviewed by DOE or its assigns, we assert that the test procedures presented herein can be incorporated into the ARI 210/240 as an approved manner to test multi-blower coil assemblies like the Cascade Energy Saver.

4. It is Cascade's intention to cooperate with DOE or its assigns, in rigorously supporting the data presented herein, the procedure as detailed by TAMU–ESL, our laboratory, the efficiencies reported and the conclusions.

5. Cascade Manufacturing believes that the benefits to the consumer in the future usage of this CES unit will be dramatic in terms of reducing energy consumption which is the intent of the NAECA.

**Identification of Manufacturers With Similar Design Characteristics**

There are no other known manufacturers or products that are like the CES. This is the patented feature of the CES. The fact that the CES using multiple blowers is what creates the problem with the standards as noted previously in this Petition.

**Alternative Test Procedures To Evaluate Energy Consumption Characteristics**

- Cascade Manufacturing entered into a testing contract with Texas A&M University's Energy Services Laboratory. The procedure that TAMU–ESL followed was the ARI 210/240 procedure. TAMU–ESL ''modeled'' the Cascade system as a 2 speed blower and the compressors with 2 stages.
- Thus, TAMU–ESL's procedure was to collect data under the Tests A,B,C and D with all 8 blowers running (modeled as a single blower) and both compressors running (modeled as a single 2 speed compressor) and this is a full load case. Then, part load conditions were 4 blowers operating (modeled as a low speed single fan) and one compressor operating (modeled as a single compressor in low speed).
- The CES unit had a 5 ton evaporator coil, split 50%/50% in the sense that it has a 4 row slab coil with 2 of the rows being connected to one 2.5 ton heat pump and the other two rows connected to the other 2.5 ton heat pump. The slab coil is patented in its design. It is a face split. Rows 1 and 3 are connected to one heat pump and rows 2 and 4 are connected to the other heat pump. The coil surface stays wet with one or both of the heat pumps operating.
- When the full load test was conducted, all 8 fans were on. The 8 fans are powered by individual ⅓hp GE ECM motors which use 50 watts of power each, thus 400 watts total for all 8 fans. Each fan was set to blow only 250 cfm at 0.5″ ESP, for a total of 2000 cfm (i.e., 5 tons of air). The outlet from each of the 8 zones was ducted with flex into a single 16″ header. The 16″ header was then ducted into the wind tunnel.
- During the part load test, only four zone blowers were operating. Each of these four blowers was delivering 250 cfm at 0.5″; ESP, for a total of 1000 cfm which is the 400 cfm per ton for 2.5 tons. The ducting was the same as in full load.
- Tests A,B and C were run in accordance with the ARI210/240 procedure and pursuant to the notes summarized above. Test D was not run since we chose to use the default coefficient of degradation of 0.25.
- Finally, it is evident to me from these results that the ARI 210/240 procedures worked for the Cascade unit. Further, the procedure can and should be evaluated by the industry bodies that are responsible for code enforcement to implement changes accordingly to allow for testing of Cascade units.

Petitioner

Gary R. Scoggins, P.E.,

Special Projects Engineer.

Representative for Cascade Group, LLC general partner for Cascade Manufacturing LP.

2183 Buckingham Road #301,

Richardson, Texas 75081–5499

1–214–341–9300

Patents 5,701,750 and 6,792,768

**Appendix A—The Test Report From Texas A&M University, College Station, Texas, Dated August 27, 2004**

**Results of Heating and Cooling Performance Testing of Cascade Energy Saver™**

*Final Report*

Submitted to

Cascade Manufacturing, LP, c/o United Mechanical, Inc., 11540 Plano Road, Dallas, Texas 75243.

Submitted by
Michael A. Davis, Assistant Research Engineer;
Carlos Ortiz, P.E., Assistant Research Engineer;
August 27, 2004.
Energy Systems Laboratory, Texas Engineering Experiment Station, College Station, Texas 77843.

**Executive Summary**

Cascade Manufacturing, LP (CM) contracted with the Energy Systems Laboratory (ESL) to conduct heating and cooling rating and performance tests on their multizoned coil blower unit called, ''Cascade Energy Saver'' (CES) in accordance with the ARI Standard for Air Source Split system heat pumps. The equipment tested consisted of one CES unit with 8 blowers, one Aspen 5 ton Coil model # BHA40 60+x3 50/50SP (a two circuit slab coil with TXVs, 2.5 tons per circuit), and two Amana 2.5 ton Heat pump model RHF 030—12 SEER.

At the time that this report was written and the tests were conducted, the ARI 210/240 (Standard) was not clear with a procedure for the proper rating and performance tests for an HRCU–A–CB with multiple-zone blowers as manufactured by CM. In order to obtain laboratory data that would support an SEER, HSPF, COP and EER determination, ESL determined to follow and apply the Standard's HRCU–A–CB as closely as possible (exceptions, deviations and assumptions to follow in this document). It appeared to ESL engineers that the Standard could be applied to the performance ratings of a CES unit when fixed indoor blower fan speeds were used in combination with (1.) traditional 400 cfm per ton and (2.) various compressor combinations. Before describing the application of the Standard, a description of the CES unit will be given in order for the reader to understand the logic behind the application of the Standard.

The CES unit consists of two heat pump units connected to an evaporator that has two refrigerant circuits. The evaporator is followed by a plenum which houses multiple blowers that are independently operated by a control system developed specifically for the blower/evaporator/heat pump system. When in normal operation, the control system manages the operation of the compressors and fans in order to meet the system load as dictated by the multiple thermostats connected to the controller. The blower motors are variable speed motors manufactured by GE, model 2.3 ECM that can be operated at full capacity during peak operation or scaled back to lower rotational speeds at part load conditions. With the lower rotational speeds, lower cfm rates can be delivered independently to each zone connected to the system.

The heat pump condenser units are off-the-shelf units and are not manufactured by Cascade Manufacturing, rather their design permits the use of any manufactured unit from companies such as Amana Trane, Carrier, Lennox, or others. For our tests, we were supplied with Amana Heat Pumps. The heat pumps were operated in either an on or off mode and each one had single speed compressors and single speed fans. The fact that there are two heat pumps of equal size providing the two stages of cooling and heating with up to 8 indoor fans in a draw thru configuration to the dual circuit evaporator coil was the primary reason for selecting the specific guidelines from the Standard. The Standard gives detailed instructions for a variety of compressor operation combinations but it does not adequately describe various combinations of indoor fan(s) and two evaporator/compressor combinations possible with this unit. It was decided that the standard descriptions where the title included ''units with two-speed compressors, two compressors, or cylinder unloading'' most closely matched the operation of the CES unit. Typically units with two compressors also have separate refrigerant circuits on both the indoor and outdoor coils which match the configuration of the CES unit.

The two major differences with this system in light of the Standard was how to apply the Standard to (1.) a coil blower unit with a 4 row, dual circuited evaporator coil which is circuited with full face of the 1st and 3rd rows on one heat pump and rows 2 and 4 on the second heat pump, (2.) more than one evaporator blower. The coil blower unit tested had 8 blowers. The Standard does not describe how to handle the various air flows that can be produced with eight blowers. It was determined that the best way to test the unit was to apply full-load air flows as determined by nominal 400 cfm per ton (compressor) operation. For example, if both 2.5 ton heat pumps were operating, the rated air flow that was tested was 2,000 cfm. With one heat pump running, the coil blower unit would have half the heating/cooling capacity therefore the full load air flow would be 1,000 cfm which is half of the two heat pump supply side air flow. This interpretation of the Standard was used for both heating and cooling tests.

For cooling, testing was done following the guidelines in ARI 210/240 section A2.1.3. Tests A, B, and C were conducted for both single heat pump and two heat pump operation. Test D was not done and the default $C_D$ of 0.25 was used for SEER calculations. The indoor air-enthalpy method was used during the tests. A description of the test facilities and the energy balance method is included below. Proper energy balances were achieved for all tests as were within the specifications of the standard. The results of the cooling tests are included in the table below.

For heating, testing was done following the guidelines in ARI 210/240 section A2.2.2. Tests were conducted at 62F (one heat pump), 47F (one and two heat pumps), 35F (one and two heat pumps), and 17F (two heat pumps). The indoor air-enthalpy method was used during the tests. Proper energy balances were achieved on all test except the 17F test. Due to the cycling of the heat pumps between heating and defrost, two phase transients in the refrigerant circuit prevented a good measurement of the refrigerant flow until the unit reached steady state. The period of time where the refrigerant was in two phases was sufficient to prevent a proper energy balance from being achieved. The air-side measurements were taken with the same instrumentation during the 17F tests as were used during all other testing. It is reasonable to assume the air side measurements were accurate during the 17F tests since proper energy balances were achieved during all other tests. The results of the heating tests are included in the table below.

| | Total capacity (btuh) | Total power (kW) | EER |
|---|---|---|---|
| **Cooling** | | | |
| A | 65,201 | 4.4 | 14.8 |
| B | 63,766 | 3.8 | 16.6 |
| C | 58,393 | 3.9 | 15.0 |
| SEER | 18.1 | | |
| | Total capacity (btuh) | Total power (kW) | COP |
| **Heating** | | | |
| 62F | 37,979 (1 comp) | 3.1 | 3.6 |
| 47F | 67,827 | 5.7 | 3.5 |
| 35F | 56,561 | 5.2 | 3.2 |
| 17F | 37,645 | 4.5 | 2.5 |
| HSPF | 9.5 | | |

**Facilities and Procedure**

All of the tests were conducted in the psychrometric rooms at the Energy Systems Laboratory which is part of the Texas Engineering Experiment Station a division within the Texas A&M University System. These rooms were completed in 1986 and have been used for research projects and industry testing. The rooms were designed for testing of systems with cooling capacities up to 10 tons. Chilled water is provided to the rooms by a 75 ton Trane screw chiller. Reheat is provided by 40 kW of electrical strip heaters in the conditioning ductwork. In addition, a desiccant system is used to provide low humidity conditions in either room. The psychrometric rooms allow indoor and outdoor dry-bulb and wet-bulb temperatures to be maintained within approximately ± 0.3 °C (0.5 °F) during steady state operations. Temperatures from 17 °F to 120 °F have been maintained for tests in the rooms for previous tests. The rooms are capable of running all standard ARI 210/240 (ARI 2003) and ASHRAE 37/116 (ASHRAE 1988 and 1983) unitary heat pump and air conditioners tests, which include both heating and cooling mode.

Electric resistance heaters and chilled water coils are used to maintain room temperature. Reheat in each room is provided by four banks of 9.9 kW electrical strip heaters in the conditioning ductwork. The cooling coil is supplied with a water ethylene glycol solution from the chiller. A 1000 gallon water storage tank is mounted in the system to stabilize the chilled water temperature and reduce the cycling of the chiller. Steam from an electric-fired boiler and dehumidification coils control the humidity in the rooms. The dehumidification coils are fed from the same cool storage tank as the cooling coils. The boiler supplies steam directly into the supply air duct. Room temperature is maintained by adjusting the chilled water flow to coils with VSD driven pumps in combination with the operation of the reheat coils.

The indoor test section includes the indoor air flow chamber and the indoor fan coil section. The air flow chamber fan draws conditioned air from the indoor room through the indoor test section. An adjustable damper is used to maintain the amount of air flow specified for each unit. After leaving the air flow chamber, conditioned air is routed back into the indoor room. Figure 1 shows a sketch of the indoor and outdoor rooms as used for these tests.

The outdoor room section is the condensing sections for the heat pump units (compressors and outdoor coils) plus the outdoor airflow chamber. Conditioned outdoor air enters the outdoor coil and is exhausted to the outdoor room. Outdoor airflow rates were not measured for these units. Air is drawn in through all sides of the outdoor unit and discharged through the top of the unit. A sampler mounted around the outdoor coils measured dry-bulb temperature and relative humidity as it entered the condensers.

The instrumentation for all tests is divided into air-side and refrigerant-side measurements. The air-side temperature measurements for both the inlet and outlet of the indoor coil unit are made using type-T thermocouple grids. A combination of dew point and relative humidity sensors were used for the inlet and outlet of indoor coil unit. For the outdoor unit, both temperature and humidity were measured on the inlet side of the condenser. Because the indoor enthalpy method was used for all tests, condenser outlet RH was not measured. Both inlet and outlet temperatures were be measured with type-T thermocouples.

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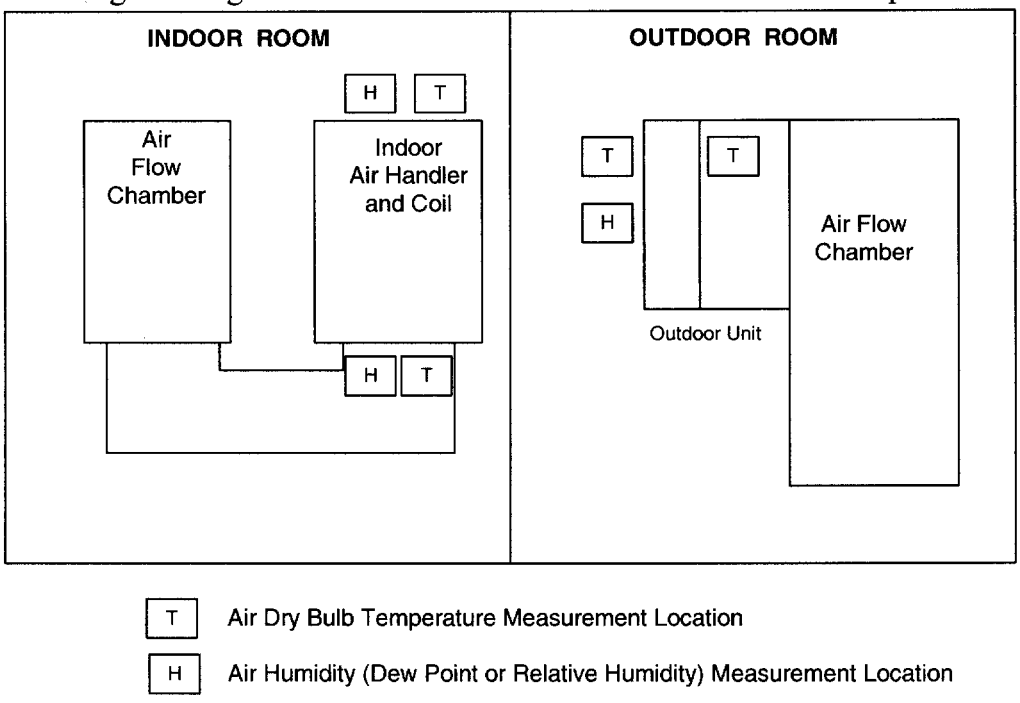
Figure 1. – Drawing showing indoor and outdoor rooms with measurement test points.




Refrigerant-side temperatures and pressures were measured throughout the system. Refrigerant-side test points are shown on Figure 2. With the exception of the refrigerant flow rate, the outdoor unit power, and the air flow differential pressure, the rest of the measurements are temperatures (dry-bulb, wet-bulb, dew point) and pressures. Refrigerant mass flow was measured with a Coriolis-type flow meter placed on the liquid line after the condensing section of the heat pump unit (Figure A.2) for both heat pumps units. Separate mass flow meters were used for each heat pump unit.

The data acquisition system converted signals coming from all the sensors in the indoor and outdoor rooms into temperatures, pressures, flow rates, or power. A data logger was used to collect data from the testing apparatus. The logger is linked to a computer where the data was visually displayed during testing. Once a test was complete, the data was transferred to another computer for processing. Each channel was scanned by the logger at regular intervals and the data was stored every thirty seconds. A minimum of one hour of steady state data was collected as per the standard's specifications for cooling and 30 minutes for heating. For cooling tests A and B, steady state was maintained for one hour before the start of data collection in order to ensure that steady state dehumidification had been achieved. A description of the data acquisition test points is listed in Table 1.

Figure 2 – Data acquisition points in the refrigerant side of the system.

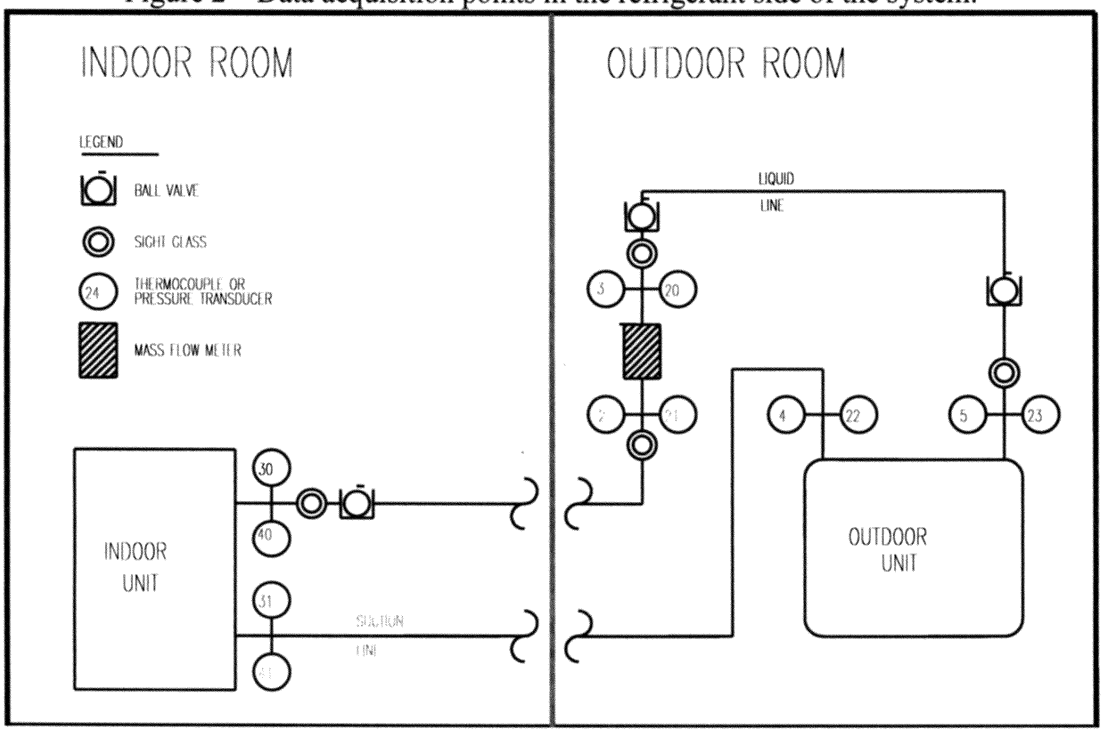



Table 1 – Data acquisition format for these tests.

| Channel | Sensor Type | Channel Description |
|---|---|---|
| 0 | Mass Flow meter | Refrigerant Flow rate |
| 1 | Watt Transducer | Condenser Power |
| 2 | Pressure Transducer | Mass flow exit pressure |
| 3 | Pressure Transducer | Mass flow inlet pressure |
| 4 | Pressure Transducer | Condenser suction line pres. |
| 5 | Pressure Transducer | Condenser liquid line pres. |
| 20 | Thermocouple | Mass flow inlet temperature |
| 21 | Thermocouple | Mass flow exit temperature |
| 22 | Thermocouple | Condenser suction line temp. |
| 23 | Thermocouple | Condenser liquid line temp. |
| 24 | Thermocouple | Condenser inlet air temp. |
| 30 | Thermocouple | Evaporator liquid line temp. |
| 31 | Thermocouple | Evaporator suction line temp. |
| 32 | Thermocouple | Air flow chamber temp. |
| 33 | Wet Bulb sensor | Evaporator inlet wet-bulb temp. |
| 35 | Wet Bulb sensor | Evaporator exit wet bulb temp. |
| 36 | Thermocouple Grid | Evaporator exit dry bulb temp. |
| 38 | Thermocouple Grid | Evaporator inlet dry bulb temp. |
| 40 | Pressure transducer | Evaporator liquid line pressure |
| 41 | Pressure Transducer | Evaporator suction line pressure |
| 43 | Dew point Sensor | Dew point Sensor (temp) |
| 44 | Differential Pressure | Air Flow differential pressure |

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The test procedure consisted of setting up the CES unit as per manufacturer's recommendations, charging the system(s), installing the appropriate instrumentation,

and running the selected tests. The tests conducted were selected by following the Standard, HRCU–A–CB. The Standard did not describe how to test a unit with eight indoor blowers, dual circuited evaporator coil and two heat pump units. Since the Standard did describe how to test a unit with two compressors which closely models the heat pumps, it was decided to follow the two compressor model of the Standard for all tests. Because of the way the CES proprietary control system operated the eight indoor blowers, it was decided to use 400 cfm per ton air flow for each compressor (2.5 ton heat pump).

When test points were selected from the guidelines, tests were conducted at the appropriate indoor and outdoor temperatures for single heat pump operation and when both heat pump units were operating. There were three exceptions. When in cooling mode, Test C was conducted for full load operation only. When in heating mode the 62F test was conducted with only single heat pump in operation while the 17F test was conducted for dual condenser operation only. The test point room conditions were as specified by the Standard 210/240 guidelines.

When cooling tests were conducted the moisture measurements were made using chilled mirror hygrometers in combination with relative humidity sensors as a backup. In addition to the two sensors, condensate was collected during all A and B tests. The energy balances were based on the amount of condensate collected. During the last few cooling tests, the hygrometer used to measure moisture at the evaporator exit failed. For these tests, the sensible capacity was calculated using the formula btuh = $1.1^{*}cfm^{*}(T_{air_entering} - T_{air_exiting})$. The latent capacity was calculated from the measured condensate for all A and B tests. For heating tests, the chilled mirror hygrometers were replaced with relative humidity sensors.

**Results**

A summary of the results of the tests for the full load operation of the Cascade Energy Saver (two heat pumps and eight indoor blowers at a total of 2000 cfm) (hereinafter referred to as ''Full Capacity'') are included in Table 3 below. A detailed summary of each test is included in the pages that follow.

TABLE 3.—SUMMARY OF THE RESULTS OF THE TESTS FOR THE CASCADE ENERGY SAVER

[The test results are for the unit running at full capacity]

| | Total capacity (btuh) | Total power (kW) | EER |
|---|---|---|---|
| **Cooling** | | | |
| A | 65,201 | 4.4 | 14.8 |
| B | 63,766 | 3.8 | 16.6 |
| C | 58,393 | 3.9 | 15.0 |
| SEER | 18.1 | | |
| | **Total capacity (btuh)** | **Total power (kW)** | **COP** |
| **Heating** | | | |
| 62F | 37,979 (1 comp) | 3.1 | 3.6 |
| 47F | 67,827 | 5.7 | 3.5 |
| 35F | 56,561 | 5.2 | 3.2 |
| 17F | 37,645 | 4.5 | 2.5 |
| HSPF | 9.5 | | |

RESULTS COOLING

**Test A. Single Heat Pump, Four Blowers**

**System Average Performance Data**

| | | |
|---|---|---|
| System EER | 14.2 | Btu/hr-W. |
| Sensible heat factor | 0.8 | %. |
| System Capacity | 29576.6 | Btu/hr. |
| Total System Power | 2.1 | KW. |
| NRG Bal (refside, cond) | 5.2 | % Diff. |
| NRG Bal (refside, dps) | 7.5 | % Diff. |

**Indoor Coil Conditions**

| | | |
|---|---|---|
| Air Entering Dry Bulb | 80.0 +/− | 0.08 Deg F. |
| Air Entering Wet Bulb | 66.7 +/− | 0.15 Deg F. |
| Air Entering Enthalpy | 31.2 +/− | 0.12 Btu/lb. |
| Air Exiting Dry Bulb | 58.5 +/− | 0.18 Deg F. |
| Air Exiting Enthalpy | 25.1 +/− | 0.32 Btu/lb. |
| Air Flow Rate | 1033.5 +/− | 7.89 CFM. |
| Measured Fan Power | 0.2 +/− | 0 KW. |
| Refrig Entering pressure | 212.5 +/− | 0.65 Psia. |
| Refrig Entering temp | 99.1 +/− | 0.22 Deg F. |
| Refrig Exiting pressure | 82.9 +/− | 0.22 Psia. |
| Refrig Exiting Temp | 72.5 +/− | 1.08 Deg F. |
| Air Side SensCap | 24464.7 | Btu/hr. |
| AS CondLatentCap | 5111.9 | Btu/hr. |
| AS EstLatentCap | 4396.2 | Btu/hr. |
| AS Cap Cond | 29576.6 | Btu/hr. |
| AS Cap Est | 28860.8 | Btu/hr. |

RESULTS COOLING—Continued

| | | |
|---|---|---|
| Refrigerant Side Capacity | 31206.7 +/− | 131.26 Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb | 94.5 +/− | 0.22 Deg F. |
| Suction Pressure | 83.4 +/− | 0.23 Psia. |
| Suction Temperature | 63.1 +/− | 0.74 Deg F. |
| Liquid Line pressure | 217.6 | 0.66 Psia. |
| Liquid Line Temperature | 105.5 +/− | 0.25 Deg F. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate | 7.0 +/− | 0.02 Lb/min. |
| Entering pressure | 217.2 +/− | 0.66 Psia. |
| Entering temperature | 104.6 +/− | 0.25 Deg F. |
| Exiting pressure | 214.2 +/− | 0.65 Psia. |
| Exiting temperature | 103.7 +/− | 0.24 Psia. |
| **Test A. Two Heat Pump, Eight Blowers** | | |
| Test Description | ARI 210–240 Test A. | |
| Start of Test | 5/22/04 | 5:21:59 PM. |
| End of Test | 5/22/04 | 6:21:59 PM. |
| Number of Data Scans | 3289. | |
| **System Average Performance Data** | | |
| System EER | 14.8 | Btu/hr-W. |
| Sensible heat factor | 0.8 | %. |
| System Capacity | 65201.2 | Btu/hr. |
| Total System Power | 4.4 | KW. |
| NRG Bal (refside, cond) | −2.6 | % Diff. |
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 79.8 +/− | 0.42 Deg F. |
| Air Entering Wet Bulb | 67.0 +/− | 0.31 Deg F. |
| Air Exiting Dry Bulb | 58.1 +/− | 0.27 Deg F. |
| Air Flow Rate | 2070.9 +/− | 0.35 CFM. |
| Measured Fan Power | 0.4 +/− | 0.26 KW. |
| Air Side SensCap | 49637.4 | Btu/hr. |
| AS CondLatentCap | 13849.3 | Btu/hr. |
| AS Cap Cond | 63486.8 | Btu/hr. |
| Refrigerant Side Capacity | 65201.2 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 95.0 +/− | 0.3 Deg F. |
| Air Entering Dry Bulb 2 | 94.5 +/− | 0.3 Deg F. |
| Measured Power | 4.0 +/− | 0.0 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 7.9 +/− | 0.0 Lb/min. |
| Refrigerant flow rate 2 | 7.2 +/− | 0.0 Lb/min. |
| Total Mass Flow Rate | 15.0 | 0.0 Lb/min. |
| **Test B. Single Heat Pump, Four Blowers** | | |
| **System Average Performance Data** | | |
| System EER | 17.8 | Btu/hr-W. |
| Sensible heat factor | 0.8 | %. |
| System Capacity | 31891.5 | Btu/hr. |
| Total System Power | 1.8 | KW. |
| NRG Bal (refside, cond) | 0.5 | % Diff. |
| NRG Bal (refside, dps) | −1.2 | % Diff. |
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 80.0 +/− | 0.06 Deg F. |
| Air Entering Wet Bulb | 67.1 +/− | 0.05 Deg F. |
| Air Entering Enthalpy | 31.5 +/− | 0.04 Btu/lb. |
| Air Exiting Dry Bulb | 58.6 +/− | 0.1 Deg F. |
| Air Exiting Enthalpy | 24.9 +/− | 0.41 Btu/lb. |

RESULTS COOLING—Continued

| | | |
|---|---|---|
| Air Flow Rate | 1084.5 +/− | 3.99 CFM. |
| Measured Fan Power | 0.2 +/− | 0 KW. |
| Refrig Entering pressure | 175.6 +/− | 0.31 Psia. |
| Refrig Entering temp | 87.7 +/− | 0.12 Deg F. |
| Refrig Exiting pressure | 79.3 +/− | 0.16 Psia. |
| Refrig Exiting Temp | 81.4 +/− | 0.47 Deg F. |
| Air Side SensCap | 26042.4 | Btu/hr. |
| AS CondLatentCap | 5849.1 | Btu/hr. |
| AS EstLatentCap | 6384.3 | Btu/hr. |
| AS Cap Cond | 31891.5 | Btu/hr. |
| AS Cap Est | 32426.7 | Btu/hr. |
| Refrigerant Side Capacity | 32048.9 +/− | 93.46 Btu/hr. |

**Outdoor Coil Conditions**

| | | |
|---|---|---|
| Air Entering Dry Bulb | 81.7 +/− | 0.12 Deg F. |
| Suction Pressure | 79.5 +/− | 0.15 Psia. |
| Suction Temperature | 68.6 +/− | 0.26 Deg F. |
| Liquid Line pressure | 180.1 +/− | 0.32 Psia. |
| Liquid Line Temperature | 91.4 +/− | 0.14 Deg F. |

**Mass Flow Meter Conditions**

| | | |
|---|---|---|
| Refrigerant flow rate | 6.7 +/− | 0.02 Lb/min. |
| Entering pressure | 180.2 +/− | 0.32 Psia. |
| Entering temperature | 90.5 +/− | 0.14 Deg F. |
| Exiting pressure | 177.3 +/− | 0.31 Psia. |
| Exiting temperature | 89.7 +/− | 0.14 Psia. |

**Test B. Two Heat Pumps, Eight Blowers**

| | | |
|---|---|---|
| Test Description | ARI 210–240 Test B | |
| Start of Test | 5/24/04 | 5:00:00 PM. |
| End of Test | 5/24/04 | 6:00:00 PM. |
| Number of Data Scans | 3332. | |

**System Average Performance Data**

| | | |
|---|---|---|
| System EER | 16.6 | Btu/hr-W. |
| Sensible heat factor | 0.7 | %. |
| System Capacity | 63765.7 | Btu/hr. |
| Total System Power | 3.8 | KW. |
| NRG Bal (refside, cond) | 4.6 | % Diff. |

**Indoor Coil Conditions**

| | | |
|---|---|---|
| Air Entering Dry Bulb | 80.4 +/− | 0.14 Deg F. |
| Air Entering Wet Bulb | 67.4 +/− | 0.17 Deg F. |
| Air Exiting Dry Bulb | 58.4 +/− | 0.15 Deg F. |
| Air Flow Rate | 2071.6 +/− | 0.28 CFM. |
| Measured Fan Power | 0.4 +/− | 0.21 KW. |
| Air Side SensCap | 49974.3 | Btu/hr. |
| AS CondLatentCap | 16706.2 | Btu/hr. |
| AS Cap Cond | 66680.5 | Btu/hr. |
| Refrigerant Side Capacity | 63765.7 | Btu/hr. |

**Outdoor Coil Conditions**

| | | |
|---|---|---|
| Air Entering Dry Bulb 1 | 82.4 +/− | 0.2 Deg F. |
| Air Entering Dry Bulb 2 | 81.9 +/− | 0.2 Deg F. |
| Measured Power | 3.4 +/− | 0.0 KW. |

**Mass Flow Meter Conditions**

| | | |
|---|---|---|
| Refrigerant flow rate 1 | 7.1 +/− | 0.0 Lb/min. |
| Refrigerant flow rate 2 | 7.0 +/− | 0.0 Lb/min. |
| Total Mass Flow Rate | 14.1 | 0.0 Lb/min. |

**Test C. Two Heat Pumps, Eight Blowers**

| | | |
|---|---|---|
| Test Description | ARI 210–240 Test C.. | |
| Start of Test | 2/05/2004 | 1:08:04 PM. |
| End of Test | 2/05/2004 | 2:09:25 PM. |
| Number of Data Scans | 3438. | |

## RESULTS COOLING—Continued

| System Average Performance Data | | |
|---|---|---|
| System EER | 15.0 | Btu/hr-W. |
| Sensible heat factor | 1.0 | %. |
| System Capacity | 58392.9 | Btu/hr. |
| Total System Power | 3.9 | KW. |
| NRG Bal (refside, cond) | 2.0 | % Diff. |
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 80.4 +/− | 0.13 Deg F. |
| Air Entering Wet Bulb | 41.2 +/− | 0.00 Deg F. |
| Air Exiting Dry Bulb | 53.5 +/− | 0.15 Deg F. |
| Air Flow Rate | 2010.4 +/− | 0.24 CFM. |
| Measured Fan Power | 0.4 +/− | 0.00 KW. |
| Air Side SensCap | 59532.7 | Btu/hr. |
| AS CondLatentCap | 0 | Btu/hr. |
| AS Cap Cond | 59532.7 | Btu/hr. |
| Refrigerant Side Capacity | 58392.9 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 82.6 +/− | 0.1 Deg F. |
| Air Entering Dry Bulb 2 | 83.5 +/− | 0.3 Deg F. |
| Measured Power | 3.5 +/− | 0.0 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 12.9 +/− | 0.0 Lb/min. |
| Total Mass Flow Rate | 12.9 | 0.0 Lb/min. |

## SEER CALCULATIONS

| | One comp | Two comp | One comp | Two comp |
|---|---|---|---|---|
| OAT | Q1 | Q2 | E1 | E2 |
| 95 | 29576.58 | 65201 | 2.08 | 4.4 |
| 82 | 31891.51 | 66680 | 1.79 | 3.8 |

| Step | j | Nj/N | BL(Tj) | X(k=1) | X(k=2) | PLF | Q(T)?N | E(T)/N |
|---|---|---|---|---|---|---|---|---|
| 1 | 67 | 0.214 | 3951.576 | 0.124 | 0.000 | 0.781 | 845.6 | 0.1 |
| 2 | 72 | 0.231 | 13830.515 | 0.434 | 0.000 | 0.858 | 3194.8 | 0.2 |
| 3 | 77 | 0.216 | 23709.455 | 0.743 | 0.000 | 0.936 | 5121.2 | 0.3 |
| 4 | 82 | 0.161 | 33588.394 | 1.053 | 0.000 | 1.013 | 5407.7 | 0.3 |
| 5 | 87 | 0.104 | 43467.333 | 0.652 | 0.348 | 0.913 | 4520.6 | 0.1 |
| 6 | 92 | 0.052 | 53346.273 | 0.356 | 0.644 | ..... | 2774.0 | 0.2 |
| 7 | 97 | 0.018 | 63225.212 | 0.059 | 0.941 | ..... | 1173.6 | 0.1 |
| 8 | 102 | 0.004 | 73104.152 | −0.237 | 1.237 | ..... | 260.8 | 0.0 |
| Sum Q(T) | 23298.5 | ..... | ..... | ..... | ..... | ..... | 23298.5 | 1.3 |
| Sum E (T) | 1.3 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| SEER | 18.1 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |

## RESULTS HEATING

| Test 62F Outdoor, Single Heat Pump, Four Blowers | | |
|---|---|---|
| Test Description | ARI 210–240 Heating 62 F OAT. | |
| Start of Test | 8/08/2004 | 2:30:00 PM. |
| End of Test | 2/05/2004 | 3:06:33 PM. |
| Number of Data Scans | 2182. | |
| **System Average Performance Data** | | |
| System COP | 3.6. | |
| System Capacity | 37048.4 | Btu/hr. |
| Total System Power | 3.1 | KW. |
| NRG Bal (refside) | −2.5 | %. |

RESULTS HEATING—Continued

| | | |
|---|---|---|
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 69.61 +/− | 0.26 Deg F. |
| Air Entering RH | 46.27 +/− | 0.07%. |
| Air exiting Wet Bulb | 57.16 +/− | 0.22 Deg F. |
| Air Exiting Dry Bulb | 111.2 +/− | 0.37 Deg F. |
| Air Flow Rate | 945.4 | CFM. |
| Measured Fan Power | 0.2 +/− | 0.00 KW. |
| Air Side SensCap | 37979.1 | Btu/hr. |
| Refrigerant Side Capacity | 37048.4 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 61.8 +/− | 0.3 Deg F. |
| Air Entering Dry Bulb 2 | 62.5 +/− | 0.3 Deg F. |
| Measured Power | 2.9+/− | 0.2 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 7.5 +/− | 0.1 Lb/min |
| Total Mass Flow Rate | 7.5 | 0.0 Lb/min. |
| **47F Outdoor, Single Heat Pump, Four Blowers** | | |
| Test Description | ARI 210–240 Heating 47 F OAT. | |
| Start of Test | 7/18/2004 | 7:24:11 PM. |
| End of Test | 7/18/2004 | 7:54:49 PM. |
| Number of Data Scans | 1601. | |
| **System Average Performance Data** | | |
| System COP | 3.3. | |
| System Capacity | 3058303 | Btu/hr. |
| Total System Power | 2.8 | KW. |
| NRG Bal (refside) | −4.9 | %. |
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 69.2 +/− | 0.43 Deg F. |
| Air Entering RH | 57.2 +/− | 3.11%. |
| Air exiting Wet Bulb | 59.6 +/− | 1.14 Deg F. |
| Air Exiting Dry Bulb | 102.6 +/− | 0.43 Deg F. |
| Air Flow Rate | 969.3 | CFM. |
| Measured Fan Power | 0.2 +/− | 0.00 KW. |
| Air Side SensCap | 32093.2 | Btu/hr. |
| Refrigerant Side Capacity | 30583.3 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 46.4 +/− | 0.4 Deg F. |
| Air Entering Dry Bulb 2 | 47.6 +/− | 0.6 Deg F. |
| Measured Power | 2.6+/− | 0.0 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 6.1 +/− | 0.1 Lb/min. |
| Total Mass Flow Rate | 6.1 | 0.0 Lb/min. |
| **47F Outdoor, Two Heat Pumps, Eight Blowers** | | |
| Test Description | ARI 210–240 Heating 47 F OAT. | |
| Start of Test | 7/8/2004 | 11:12:00 PM. |
| End of Test | 7/8/2004 | 12:00:00 PM. |
| Number of Data Scans | 1042. | |
| **System Average Performance Data** | | |
| System COP | 3.5. | |
| System Capacity | 70140.0 | Btu/hr. |
| Total System Power | 5.7 | KW. |
| NRG Bal (refside) | 3.3 | %. |

RESULTS HEATING—Continued

| | | |
|---|---|---|
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 70.2 +/− | 0.25 Deg F. |
| Air Entering RH | 51.8 +/− | 0.33%. |
| Air exiting Wet Bulb | 59.1 +/− | 0.29 Deg F. |
| Air Exiting Dry Bulb | 104.5 +/− | 0.22 Deg F. |
| Air Flow Rate | 969.3 | CFM. |
| Measured Fan Power | 0.4 +/− | 0.01 KW. |
| Air Side SensCap | 67826.8 | Btu/hr. |
| Refrigerant Side Capacity | 70140.0 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 46.8 +/− | 0.3 Deg F. |
| Air Entering Dry Bulb 2 | 47.6 +/− | 0.3 Deg F. |
| Measured Power | 5.2+/− | 0.0 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 5.9 +/− | 0.0 Lb/min. |
| Refrigerant flow rate 1 | 5.7 +/− | 0.0 Lb/min. |
| Total Mass Flow Rate | 11.7. | |
| **35F Outdoor, Single Heat Pump, Four Blowers** | | |
| Test Description | ARI 210–240 Heating 35 F OAT. | |
| Start of Test | 7/13/2004 | 12:30:30 PM. |
| End of Test | 7/13/2004 | 12:00:00 AM. |
| Number of Data Scans | 1562. | |
| **System Average Performance Data** | | |
| System COP | 3.1. | |
| System Capacity | 25654.6 | Btu/hr. |
| Total System Power | 2.6 | KW. |
| NRG Bal (refside) | −5.7 | %. |
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 70.5 +/− | 0.41 Deg F. |
| Air Entering RH | 60.8 +/− | 0.44%. |
| Air exiting Wet Bulb | 61.6 +/− | 0.46 Deg F. |
| Air Exiting Dry Bulb | 98.0 +/− | 3.79 Deg F. |
| Air Flow Rate | 1013.0 | CFM. |
| Measured Fan Power | 0.2 +/− | 0.00 KW. |
| Air Side SensCap | 27123.9 | Btu/hr. |
| Refrigerant Side Capacity | 25654.6 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 34.9 +/− | 0.2 Deg F. |
| Air Entering Dry Bulb 2 | 35.4 +/− | 0.3 Deg F. |
| Measured Power | 2.4+/− | 0.1 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 5.1 +/− | 0.8 Lb/min. |
| Total Mass Flow Rate | 5.1. | |
| **35F Outdoor, Two Heat Pump, Eight Blowers** | | |
| Test Description | ARI 210–240 Heating 35 F OAT. | |
| Start of Test | 7/13/2004 | 9:56:30 AM. |
| End of Test | 7/13/2004 | 12:00:00 AM. |
| Number of Data Scans | 1591. | |
| **System Average Performance Data** | | |
| System COP | 3.5. | |
| System Capacity | 58219.2 | Btu/hr. |
| Total System Power | 4.8 | KW. |
| NRG Bal (refside) | 2.8 | %. |

RESULTS HEATING—Continued

| | | |
|---|---|---|
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 70.1 +/− | 0.23 Deg F. |
| Air Entering RH | 61.9 +/− | 0.29%. |
| Air exiting Wet Bulb | 61.5 +/− | 0.27 Deg F. |
| Air Exiting Dry Bulb | 99.2 +/− | 0.19 Deg F. |
| Air Flow Rate | 1978.7 | CFM. |
| Measured Fan Power | 0.4 +/− | 0.00 KW. |
| Air Side SensCap | 56561.2 | Btu/hr. |
| Refrigerant Side Capacity | 58219.2 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 34.5 +/− | 0.5 Deg F. |
| Air Entering Dry Bulb 2 | 34.7 +/− | 0.6 Deg F. |
| Measured Power | 4.4+/− | 0.2 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 5.1 +/− | 0.1 Lb/min. |
| Refrigerant flow rate 1 | 4.7 +/− | 0.1 Lb/min. |
| Total Mass Flow Rate | 9.8. | |
| **17F Outdoor, Two Heat Pumps, Eight Blowers** | | |
| Test Description | ARI 210–240 Heating 17 F OAT. | |
| Start of Test | 8/5/2004 | 3:54:45 PM. |
| End of Test | 8/5/2004 | 4:19:38 PM. |
| Number of Data Scans | 1485. | |
| **System Average Performance Data** | | |
| System COP | 2.4. | |
| System Capacity | 37645.5 | Btu/hr. |
| Total System Power | 4.5 | KW. |
| NRG Bal (refside) | −88.3 | %. |
| **Indoor Coil Conditions** | | |
| Air Entering Dry Bulb | 70.1 +/− | 0.67 Deg F. |
| Air Entering RH | 53.0 +/− | 0.53%. |
| Air exiting Wet Bulb | 59.2 +/− | 0.65 Deg F. |
| Air Exiting Dry Bulb | 90.3 +/− | 0.68 Deg F. |
| Air Flow Rate | 1911.5 | CFM. |
| Measured Fan Power | 0.4 +/− | 0.00 KW. |
| Air Side SensCap | 37645.5 | Btu/hr. |
| Refrigerant Side Capacity | 19993.6 | Btu/hr. |
| **Outdoor Coil Conditions** | | |
| Air Entering Dry Bulb 1 | 16.6 +/− | 0.3 Deg F. |
| Air Entering Dry Bulb 2 | 16.0 +/− | 0.3 Deg F. |
| Measured Power | 4.1+/− | 0.0 KW. |
| **Mass Flow Meter Conditions** | | |
| Refrigerant flow rate 1 | 3.8 +/− | 0.0 Lb/min. |
| Refrigerant flow rate 1 | 3.3 +/− | 0.1 Lb/min. |
| Total Mass Flow Rate | 7.1. | |

BILLING CODE 6450–01–P

**HSPF Calculations**

| | | | | | | | | First Comp | | Two Comp | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | Q | E | Q | E | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| | | DHR | | 60000 | | 62 | 67979 | 3130 | 82917 | 6205 | | | | | | | | |
| | | | | 60 | | 47 | 32093 | 2810 | 67827 | 5660 | | | | | | | | |
| | | | | 1000 | | 35 | 27124 | 2580 | 56561 | 4810 | | | | | | | | |
| | | | | | | 17 | 19887 | 2213 | 37645 | 4530 | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| | | | C X D | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| | | | | | Annual | Capacity | Capacity | Load Factor | Load Factor | Part Load | Part Load | Watts | Watts | Watts | Total | | | Watt |
| | | Frac | | | Building | 1 comp | 2 comp | 1 comp | 2 comp | Factor | Factor | 1 comp | comp | Resist | Hourly | Btu/ | Hour | |
| Bin | T | Hours | BL(Ti) | BTUH | Load | Qi(k=1) | Qi(k=2) | X(Ti)k=1 | X(Ti)k=2 | 1 comp | 2 comp | E(Tj)k=1 | E(Tj)k=2 | Heat | Input | watt | Input | |
| 1 | 62 | 0.132 | 2,310 | | 2,671,099 | 37,979 | 82,917 | 0.060823 | 0.027859 | 0.756 | | 3,130 | | | 190 | 12.1 | 220,136 | |
| 2 | 57 | 0.111 | 6,160 | | 5,989,738 | 36,017 | 77,887 | 0.171030 | 0.079089 | 0.793 | | 3,023 | | | 517 | 11.9 | 502,790 | |
| 3 | 52 | 0.103 | 10,010 | | 9,031,823 | 34,055 | 72,857 | 0.293936 | 0.137392 | 0.823 | | 2,197 | | | 857 | 11.7 | 773,537 | |
| 4 | 47 | 0.093 | 13,860 | | 11,291,465 | 32,093 | 67,827 | 0.431870 | 0.204343 | 0.858 | | 2,810 | | | 1,214 | 11.4 | 988,658 | |
| 5 | 42 | 0.100 | 17,710 | | 15,513,960 | 30,131 | 62,797 | 0.587767 | 0.282020 | 0.897 | | 2,703 | | | 1,589 | 11.1 | 1,391,902 | |
| 6 | 37 | 0.109 | 21,560 | | 20,586,350 | 27,928 | 58,663 | 0.771982 | 0.367524 | 0.943 | | 2,597 | | | 2,005 | 10.8 | 1,914,053 | |
| 7 | 32 | 0.126 | 25,410 | | 28,046,542 | 25,918 | 53,408 | 0.980406 | 0.475768 | 0.995 | | 2,490 | | | 2,441 | 10.4 | 2,694,511 | |
| 8 | 27 | 0.087 | 29,260 | | 22,299,631 | 23,908 | 48,154 | 1.223881 | 0.607635 | | 0.902 | | 4,933 | | 2,998 | 9.8 | 2,284,582 | |
| 9 | 22 | 0.055 | 33,110 | | 15,952,398 | 21,897 | 42,899 | 1.512060 | 0.771805 | | 0.943 | | 4,752 | | 3,667 | 9.0 | 1,766,934 | |
| 10 | 17 | 0.036 | 36,960 | | 11,655,706 | 19,887 | 37,645 | 1.858501 | 0.981804 | | 0.995 | | 4,570 | | 4,487 | 8.2 | 1,414,971 | |
| 11 | 12 | 0.026 | 40,810 | | 9,294,886 | 17,853 | 32,615 | 2.285933 | 1.251278 | | 1.000 | | 4,388 | | 4,388 | 9.3 | 999,487 | |
| 12 | 7 | 0.013 | 44,660 | | 5,085,881 | 15,818 | 27,584 | 2.823306 | 1.619035 | | 1.000 | | 4,207 | 5,008 | 9,214 | 4.8 | 1,049,312 | |
| 13 | 2 | 0.006 | 48,510 | | 2,549,686 | 13,784 | 22,554 | 3.519298 | 2.150838 | | 1.000 | | 4,025 | 7,612 | 11,637 | 4.2 | 611,627 | |
| 14 | -3 | 0.002 | 52,360 | | 917,347 | 11,750 | 17,524 | 4.456297 | 2.987959 | | 1.000 | | 3,843 | 10,216 | 14,059 | 3.7 | 246,318 | |
| 15 | -8 | 0.001 | 56,210 | | 492,400 | 9,715 | 12,493 | 5.785700 | 4.499200 | | 1.000 | | 3,662 | 12,820 | 16,482 | 3.4 | 144,381 | |
| | | | | | | | | | | | | | | | | Total | 17,003,099 | |
| | | | | | 161,378,910 | | | | | | | | | | | | | |
| | | | | | | | | | | | | HSPF = | 9.5 | | | | | |



[FR Doc. 07–1887 Filed 4–19–07; 8:45 am]
BILLING CODE 6450–01–C

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL06–44–005]**

### Avista Energy, Inc.; Notice of Compliance Filing

April 13, 2007.

Take notice that on March 30, 2007, Avista Energy, Inc. submitted a compliance filing pursuant to the Commission's March 14, 2007 request to explain and justify the price of one transaction in excess of the Commission's WECC price soft-cap of $400.

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. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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. E7–7567 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. TX07–1–000]**

### Brazos Electric Power Cooperative, Inc.; Notice Granting Motion To Suspend Compliance Obligations

April 13, 2007.

On March 15, 2007, the Commission issued an Order Directing Interconnection and Transmission Services and Approving Settlement Agreement in *Brazos Electric Power Cooperative, Inc.,* 118 FERC ¶ 61,199 (2007) (March 15 Order).

On March 30, 2007, Brazos Electric Power Cooperative, Inc. filed a motion requesting suspension of the obligations the Commission imposed in the March 15 Order, pending final Commission action in this proceeding.

Upon consideration, the obligations the Commission imposed in the March 15 Order are suspended pending further Commission action in this proceeding.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7576 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP96–200–172]**

### CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate Filing

April 13, 2007.

Take notice that on March 30, 2007, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing and approval a negotiated rate agreement between CEGT and Coral Energy Resources, LP. CEGT has entered into an agreement to provide parking service to this shipper under Rate Schedule PHS to be effective April 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7575 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP07–398–000]**

### Cheyenne Plains Gas Pipeline Company, LLC; Notice of Tariff Filing

April 13, 2007.

Take notice that on April 12, 2007, Cheyenne Plains Gas Pipeline Company, L.L.C. (Cheyenne Plains) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sixth Revised Sheet No. 1 to become effective May 13, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of

the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7573 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP07–397–000]**

## Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 13, 2007.

Take notice that on April 10, 2007, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 272A, to become effective May 11, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7572 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. ER01–642–001, ER01–1335–011, ER01–1011–013, ER07–312–001]**

## Cottonwood Energy Company LP; Magnolia Energy LP; Rosebud Energy LP; Dogwood Energy LLC; Notice of Filing

April 16, 2007.

Take notice that on April 11, 2007, Cottonwood Energy Company LP, Magnolia Energy LP, Redbud Energy LP and Dogwood Energy LLC filed an amendment to its March 16, 2007 triennial market power update report.

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. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 23, 2007.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7511 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL05–1–003]**

### Entergy Services, Inc.; Notice of Compliance Filing

April 16, 2007.

Take notice that on April 6, 2007, Entergy Services, Inc., acting as agent for Entergy Arkansas, Inc., filed a refund report pursuant to the Commission's February 20, 2007 Order, 118 FERC ¶ 61,134 (2007).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 27, 2007.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7509 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PR07–12–000]**

### Enterprise Texas Pipeline L.P.; Notice of Petition for Rate Approval

April 13, 2007.

Take notice that on April 9, 2007, Enterprise Texas Pipeline L.P. (Enterprise Texas) filed a petition for rate approval for NGPA section 311 transportation rates equal to 44.62 cents per MMBtu, pursuant to section 284.123(b)(2)(i) of the Commission's regulations, with a proposed effective date of May 1, 2007. Enterprise Texas also submitted changes to its Operating Statement.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time April 20, 2007.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7568 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–361–062]**

### Gulfstream Natural Gas System, L.L.C.; Notice of Negotiated Rates

April 13, 2007.

Take notice that on April 11, 2007, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 8.02b, to become effective May 1, 2007.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the

Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7569 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–361–063]**

### Gulfstream Natural Gas System, L.L.C.; Notice of Negotiated Rate

April 13, 2007.

Take notice that on April 11, 2007, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 8.02c, to become effective May 1, 2007.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at http://www.ferc.gov, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7570 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ID–4962–001]**

### Laskey, Charles D.; Notice of Filing

April 16, 2007.

Take notice that on March 28, 2007, Charles D. Laskey filed an application to hold interlocking position as director of Powerspan Corporation, an affiliated supplier of electrical equipment to FirstEnergy Generation Corp., pursuant to Section 305(b) of the Federal Power Act and Part 45 of the Federal Energy Regulatory Commission's Regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 27, 2007.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7513 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER07–748–000]**

### New York Independent System Operator, Inc.; Notice of Filing

April 16, 2007.

Take notice that on April 16, 2007, New York Independent System Operator, Inc., pursuant to Section 205 of the Federal Power Act, filed revisions to its Market Administration and Control Area Services tariff and its Open Access Transmission Tariff to establish margin restoration payments, and recovery mechanisms, for units complying with a specific local reliability rule and a request for expedited action, including alternative request for a shorten comment period.

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. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time on April 26, 2007.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7512 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP07–399–000]**

### Northern Natural Gas Company; Notice of Daily Delivery Variance Charges (DDVC) and Penalty Revenue Crediting Report

April 13, 2007.

Take notice that on April 12, 2007, Northern Natural Gas Company (Northern) filed various schedules detailing the Penalty and DDVC revenues for the period November 1, 2005 through October 31, 2006 credited to shippers in accordance with Section 57 of the General Terms and Conditions of Northern's FERC Gas Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time April 24, 2007.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7574 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP06–416–002]**

### Northwest Pipeline Corporation; Notice of Compliance Filing

April 13, 2007.

Take notice that on April 10, 2007, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective January 1, 2007.

2nd Substitute Thirty-First Revised Sheet No. 5
Substitute Third Revised Sheet No. 5–B
2nd Substitute Sixth Revised Sheet No. 5–C
2nd Substitute First Revised Sheet No. 5–D
2nd Substitute Fourteenth Revised Sheet No. 6
Substitute Fifteenth Revised Sheet No. 7
Substitute Seventeenth Revised Sheet No. 8
Substitute Fifteenth Revised Sheet No. 8.1

Northwest 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 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. Bosem,**

*Secretary.*

[FR Doc. E7–7571 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP07–396–000]**

### Tennessee Gas Pipeline Company; Notice of Tariff Filing

April 16, 2007.

Take notice that on April 9, 2007, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Ninth Revised Sheet No. 324, and Fifth Revised Sheet No. 324A, to become effective May 9, 2007.

Tennessee states that it is proposing to add additional contract flexibility to the tariff provisions applicable to extension of long term firm service agreements.

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 Practices 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 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.

The 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.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7515 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL07–54–000]**

### Hot Spring Power Company, LP, Complainant v. Entergy Arkansas, Inc., Entergy Services, Inc., Respondents; Notice of Complaint

April 16, 2007.

Take notice that on April 13, 2007, pursuant to Section 206 of the Federal Power Act, Hot Spring Power Company, LP (complainant) filed a formal complaint against Entergy Arkansas, Inc. and Entergy Services, Inc. (respondents) alleging that the respondents are violating the Commission's Interconnection Policy, engaging in prohibited ''and'' pricing, and charging unjust and unreasonable rates because the respondents have misclassified certain interconnection-related facilities in the Hot Spring-EAI Interconnection Agreement and is refusing to provide transmission credits for facilities that should properly be classified as Network Upgrades under the Commission's Interconnection Policy.

The complainant states that copies of the Complaint have been served on the respondents.

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 May 3, 2007.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7510 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP07–8–000]**

### Guardian Pipeline, L.L.C; Notice of Availability of the Draft Environmental Impact Statement for the Guardian Expansion and Extension Project

April 13, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this draft Environmental Impact Statement (EIS) for the construction and operation of the natural gas pipeline facilities (referred to as the G–II Project or Project) as proposed by Guardian Pipeline, L.L.C. (Guardian) in the above-referenced docket.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the G–II Project, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The draft EIS evaluates alternatives to the proposal, including system alternatives and pipeline route alternatives.

The Bureau of Indian Affairs, the U.S. Army Corps of Engineers (COE) are federal cooperating agencies for the development of this EIS. The State of Wisconsin Department of Natural Resources is also a cooperating agency. Cooperating agencies have jurisdiction by law or have special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis or similar type of environmental analysis.

The purpose of the G–II Project is to provide the facilities necessary to provide about 537,200 decatherms per day of additional natural gas capacity to Guardian's existing pipeline system. The proposed additional capacity would facilitate the transport of natural gas to customers within the state of Wisconsin and provide those customers with the necessary infrastructure to support growth and competition within the natural gas marketplace. Guardian proposes to have the project constructed and operational by November 2008.

The draft EIS addresses the potential environmental effects of the construction and operation of the following natural gas pipeline facilities:

- 83.6 miles of 30-inch-diameter natural gas pipeline in Jefferson, Dodge, Fond du Lac, Calumet, Brown, and Outagamie Counties, Wisconsin;

• 25.9 miles of 20-inch-diameter natural gas pipeline in Brown and Outagamie Counties, Wisconsin;

• two new 39,000 horsepower (hp) electric motor driven compressor stations including the Sycamore Compressor Station located in the Sycamore Township in DeKalb County, Illinois and the Bluff Creek Compressor Station located in the Town of La Grange in Walworth County, Wisconsin;

• modifications to the existing Ixonia Meter Station in Jefferson County, Wisconsin and the construction of seven new meter stations in the Counties of Dodge, Fond du Lac, Calumet, Brown, and Outagamie Counties, Wisconsin;

• two new pig launcher facilities including a 30-inch launcher within Guardian's existing Ixonia Meter Station in Jefferson County, Wisconsin; a 30-inch-diameter receiver and 20-inch-diameter launcher within the proposed Fox Valley Meter Station in Brown County, Wisconsin; and a 20-inch-diameter receiver within the proposed West Green Bay Meter Station in Outagamie County Wisconsin; and

• six new mainline valves (MLV), four of which would occur along the 30-inch-diameter pipeline in the counties of Dodge, Fond du Lac, and Calumet, Wisconsin and two which would occur along the 20-inch-diameter pipeline in Brown and Outagamie Counties, Wisconsin.

Project construction would be initiated in the spring of 2008 and would be completed for a proposed in-service date in November 2008.

**Comment Procedures and Public Meetings**

Any person wishing to comment on the draft EIS may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received and properly recorded:

• Send an original and two copies of your comments 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 the Gas Branch 1, DG2E; and Reference Docket No. CP07–8–000 on the original and both copies.

• Mail your comments so that they will be received in Washington, DC on or before May 29, 2007.

Please note that the Commission strongly encourages electronic filing (''eFiling'') of comments. Instructions on how to ''eFile'' can be found on the Commission's Web site at *http://www.ferc.gov* under the ''Documents and Filings'' link.

In addition to or in lieu of sending written comments, we invite you to attend the public comment meeting scheduled as follows:

*May 15, 2007, 7 p.m. (CST)*
Radisson Hotel and Conference Center of Green Bay 2040 Airport Drive
Green Bay, WI US
Telephone: (920) 405–6404

*May 16, 2007, 7 p.m. (CST)*
Bauer Ramada Plaza Hotel 1 North Main Street
Fond Du Lac, WI 54935
Telephone: (920) 923–3000

*May 17, 2007, 7 p.m. (CST)*
Olympia Conference Center 1350 Royale Mile Road
Oconomowoc, WI 53066
Telephone: (262) 369–4969

The public comment meetings will be posted on the FERC's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx*. Interested parties and individuals are encouraged to attend and present oral comments on the draft EIS. Transcripts of the meetings will be prepared.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the draft EIS, a final EIS will be published and distributed by the FERC staff. The final EIS will contain the staff's responses to timely comments received on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Anyone may intervene in this proceeding based on this draft EIS. You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

The draft EIS has been placed in the public files of the FERC and is available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of hard copies and CD copies of the draft EIS are available from the Public Reference Room identified above. Copies of the draft EIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners who requested a copy of the draft EIS or provided comments during scoping; libraries; newspapers; and parties to this proceeding.

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov*).

To access information via the FERC Web site click on the ''eLibrary'' link then click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. The ''eLibrary'' link provides access to the texts for formals documents issued by the Commission, such as orders, notices, and rulemakings. For assistance with ''eLibrary'', please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659.

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. To learn more about ''eSubscription'' and to sign up for this service please go to *http://www.ferc.gov/esubscribenow.htm*.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7566 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP07–32–000]**

### Gulf South Pipeline Company, LP; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Southeast Expansion Project

April 13, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Draft Environmental Impact Statement (EIS) on the natural gas pipeline facilities proposed by Gulf South Pipeline Company, LP (Gulf South) in the above-referenced docket.

The Draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The FERC staff concludes that the proposed

Project, with the appropriate mitigation measures as recommended, would have limited adverse environmental impact.

The U.S. Fish and Wildlife Service (FWS), National Park Service (NPS), U.S. Environmental Protection Agency (EPA), and the U.S. Army Corps of Engineers (COE) are federal cooperating agencies for the development of this EIS. A federal cooperating agency has jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis.

The purpose of the proposed Project is to transport up to 1.7 billion cubic feet per day of natural gas from production fields in eastern Texas to markets in the Gulf coast, Midwestern, Northeastern and Southeastern regions of the United States.

The Draft EIS addresses the potential environmental impacts resulting from the construction and operation of the following facilities:

- Approximately 111 miles of 42-inch-diameter natural gas transmission pipeline extending easterly from Simpson County, Mississippi to Choctaw County, Alabama;
- Three new compressor stations, the Delhi, Harrisville, and Destin Compressor Stations, located in Richland County, Louisiana; Simpson County, Mississippi; and Choctaw County Alabama, respectively; and
- other ancillary facilities including five meter and regulator (M/R) facilities, eight mainline valves, 1 side valves, and two pig launcher and/or receiver facilities.

**Comment Procedures and Public Meetings**

Any person wishing to comment on the Draft EIS may do so. To ensure that your comments are timely and properly recorded so that they may be considered in the Final EIS, please carefully follow these instructions:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of your comments to the attention of Gas Branch 2, DG2E; and Reference Docket No. CP07–032–000 on the original and both copies
- Mail your comments so that they will be received in Washington, DC on or before May 29, 2007.

Please note that the Commission strongly encourages the electronic filing (eFiling) of comments. Instructions on how to ''eFile'' comments can be found on the Commission's Web site at *http://www.ferc.gov* under the ''Documents and Filings'' link.

In lieu of or in addition to sending written comments, we invite you to attend the public comment meetings the FERC will conduct in the project area to receive comments on the Draft EIS. All meetings will begin at 7 p.m. (CST), and are scheduled as follows:

| Date and time | Location |
|---|---|
| Tuesday, May 8, 7 p.m | Mendenhall Civic Center, 1630–A Simpson Highway 149, Mendenhall, Mississippi 39114, 601–847–1212. |
| Tuesday, May 9, 7 p.m | Heidelberg Multi Purpose Bldg, 114 West Park Street, Heidelberg, Mississippi 39439, 601–787–3000. |
| Wednesday, May 10, 7 p.m | Butler Civic Center, 114 North Academy Avenue, Butler, Alabama 36904, 205–459–3795. |

The public comment meetings will be posted on the FERC's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx.* Interested groups and individuals are encouraged to attend and present oral comments on the Draft EIS. Transcripts of the meetings will be prepared.

After the comments received are reviewed, any significant new issues are investigated, and modifications are made to the Draft EIS, a Final EIS will be published and distributed by the FERC staff. The Final EIS will contain the staff's responses to timely comments received on the Draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Anyone may intervene in this proceeding based on this Draft EIS. You must file your request to intervene as specified above.[1] You do not need intervenor status to have your comments considered.

The Draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the Draft EIS are available from the Public Reference Room identified above. In addition, CD copies of the Draft EIS have been mailed to affected landowners; various federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; intervenors; and other individuals that expressed an interest in the proposed Project. Hard-copies of the Draft EIS have also been mailed to those who requested that format during the scoping and comment periods for the proposed Project.

Additional information about the proposed Project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov*).

To access information via the FERC Web site click on the ''eLibrary'' link then click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. The ''eLibrary'' link provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. For assistance with ''eLibrary'', please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202)502–8659.

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 these documents. To learn more about eSubscription and to sign-up for this service please go to *http://www.ferc.gov/esubscribenow.htm.*

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7–7565 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[ Docket No. CP07–108–000]**

## Northern Natural Gas Company; Notice of Intent to Prepare an Environmental Assessment for the Proposed Redfield Expansion 2008 Project and Request for Comments on Environmental Issues

April 16, 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 Redfield Expansion 2008 Project involving construction, relocation, and operation of facilities by Northern Natural Gas Company (Northern) in and to an existing gas storage field in Dallas County, Iowa.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

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?'' was attached to the project notice that Northern provided to landowners. This fact sheet 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

Northern is proposing to expand its firm cycle capacity at the existing Redfield Storage Field by 8.0 billion cubic feet (Bcf) of storage capacity, supported by about 17.95 Bcf of cushion gas capacity, and be capable of injecting gas at maximum rate of 1.0 Bcf per day and withdrawing and delivering gas at a maximum rate of 2.5 Bcf per day. Northern seeks authority to undertake the following construction-related activities in Dallas County, Iowa:

- Drill and complete five new injection/withdrawal wells;
- Convert eight existing wells from single completion to dual completion;
- Install new separators, water pump valves, drain lines, line heaters, surface piping, and buildings at the thirteen (above) wells, and install about 2,400 feet of 6-inch-diameter pipeline to connect those wells to existing storage field pipelines;
- Install a new 16-inch control valve, dehydration tower, filter separator, and appurtenant facilities on the Mt. Simon system;
- Install a new dehydration tower and appurtenant facilities on the St. Peter system;
- Install additional gas treatment facilities at the existing Redfield Compressor Station to remove hydrogen sulfide;
- Abandon a 6,960-horsepower (hp) Solar Taurus 60S–T7000 simple cycle gas turbine driving a C–33 compressor and a 1,400-hp Waukesha L7042GSI engine driving an Ariel reciprocating compressor, as well as suction scrubbers, suction/discharge headers, valves, coolers, mufflers, and filters from the Sublette Compressor Station in Seward County, Kansas, and reinstall those facilities at the Redfield Compressor Station along with associated controls;
- Use two staging areas within the Redfield Compressor Station property; and
- Install three new access roads totaling about 2,200 feet.

The location of the project facilities is shown in Appendix 1.[2]

### Land Requirements for Construction

Construction of the proposed facilities would require about 259.1 acres of land. Following construction, about 3.5 acres would be maintained as new aboveground facility sites and permanent rights-of-way. The remaining 255.6 acres of land would be restored and allowed to revert to its former use.

### The EA Process

The National Environmental Policy Act (NEPA) 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 of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we[3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- land use
- water resources, fisheries, and wetlands
- cultural resources
- vegetation and wildlife
- air quality and noise
- endangered and threatened species
- hazardous waste
- public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

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, libraries, 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.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

[1] Northern's application was filed with the Commission under Section 7 of the Natural Gas Act.

[2] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies of all appendices, other than Appendix 1 (maps), 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.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, 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 St., NE., Room 1A, Washington, DC 20426.

• Label one copy of the comments for the attention of Gas Branch 3.

• Reference Docket No. CP07–108–000.

• Mail your comments so that they will be received in Washington, DC on or before May 18, 2007.

The Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

**Becoming an Intervenor**

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, or ''intervenor''. 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). Intervenors have the right to seek rehearing of the Commission's decision. Motions to Intervene should be electronically submitted using the Commission's eFiling system at *http://www.ferc.gov.* Persons without Internet access should send an original and 14 copies of their motion to the Secretary of the Commission at the address indicated previously. Persons filing Motions to Intervene on or before the comment deadline indicated above must send a copy of the motion to the Applicant. All filings, including late interventions, submitted after the comment deadline must be served on the Applicant and all other intervenors identified on the Commission's service list for this proceeding. Persons on the service list with email addresses may be served electronically; others must be served a hard copy of the filing.

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.

**Environmental Mailing List**

An effort is being made to send this notice to all individuals, organizations, 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. By this notice we are also asking governmental agencies, especially those in Appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EA.

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202)502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

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.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7508 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

April 16, 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.:* 12784–000.

c. *Date filed:* March 8, 2007.

d. *Applicant:* Mt. Hope Waterpower Project LP.

e. *Name and Location of Project:* The Mount Hope Pumped Storage Project would use water from the Mt. Hope Mine and would be built in the vicinity of Rockaway Township in Morris County, New Jersey.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Sam Ramiz, Mt. Hope Waterpower Project LP, 627 Mt. Hope Road, Wharton, NJ 07885–2837, (201) 361–1072.

h. *FERC Contact:* Tom Papsidero, (202) 502–6002.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

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. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12784–000) on any comments or motions filed.

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.

j. *Description of Existing Facilities and Proposed Project:* The proposed pumped storage project would be comprised of four developments, each with a powerhouse and an upper and lower reservoir. The proposed project would be constructed in four stages as follows:

(1) *Stage 1 of the project would consist of the following features:* (a) A new upper reservoir on a 60 acre site excavated through quarrying operation and having a surface area of 45 acres to be constructed on an upland site, a 60 acre tract west of Mount Hope Lake. The upper reservoir would provide total storage of 3,400 to 4,100 acre-feet. During operation, the normal maximum water surface elevation in the upper reservoir would be 900 feet msl. The upper reservoir would be filled with water pumped out of the Mount Hope Mine Complex. The Mt. Hope inactive mine would provide access to the lower reservoir located at 1,000 feet below the ground surface comprised of underground caverns; (b) a reinforced concrete intake/outtake structure capable of discharging 1,500 cubic feet per second (cfs); (c) a 10-foot-diameter, 1,300-foot-long reinforced concrete vertical intake shaft; (d) a 300-foot-long, 8-foot-diameter concrete-lined steel underground penstock; (e) a powerhouse machine hall approximately 1,300 feet below ground level containing one reversible pump turbine with a total installed generating capacity of 250 megawatts (MW); (f) a transformer hall; (g) a lower reservoir; (h) a ventilation shaft and ventilation building at the northern end of the lower reservoir; and (i) various ancillary access shafts and tunnels.

(2) *Stage 2 of the project would consist of the following features:* (a) The lower reservoir utilized in Stage 1, located 1,000 feet below the ground surface, would serve as the upper reservoir in Stage 2, and would have a total storage capacity of 4,900 to 5,800 acre-feet. During operation, the normal maximum water surface elevation in the upper reservoir would be 900 feet below the ground surface, and the normal minimum water surface elevation would be 1,000 feet below the ground surface. The upper reservoir would be partially filled with water pumped out of the Mount Hope Mine Complex; (b) the Mt. Hope inactive mine would provide access to the lower reservoir, comprised of underground caverns, located 1,700 feet below the ground surface; (c) a reinforced concrete intake/outtake structure capable of discharging 1,500 cfs; (d) a 10-foot-diameter, 1,000-foot-long reinforced concrete vertical intake structure; (e) a 300-foot-long, 8-foot-diameter concrete-lined underground penstock; (f) a powerhouse machine hall approximately 2,000 feet below ground level containing one reversible pump turbine with a total installed generating capacity of 250 MW; (g) a transformer hall; (h) a lower reservoir; (i) a ventilation shaft and ventilation building at the northern end of the lower reservoir; and (j) various ancillary access shafts and tunnels.

(3) *Stage 3 of the project would consist of the following features:* (a) An upper reservoir which would consist of the lower reservoir used in Stage 2, located 1,700 feet below the ground surface. The upper reservoir would be partially filled with water pumped out of the Mount Hope Mine and would have a total storage capacity of 4,250 to 4,900 acre-feet. The upper reservoir would have a maximum water surface elevation of 1,600 feet below the ground surface, and the normal minimum water surface elevation would be 1,700 feet below the ground surface; (b) the Mr. Hope inactive mine would provide access to the lower reservoir, comprised of underground caverns, located 2,500 feet below the ground surface; (c) a reinforced concrete intake/outtake structure capable of discharging 1,500 cfs; (d) a 10-foot-diameter, 1,100-foot-long reinforced concrete vertical intake shaft; (e) a 300-foot-long, 8-foot-diameter concrete-lined underground penstock; (f) a powerhouse machine hall approximately 2,800 feet below ground containing a reversible pump turbine with a total installed generating capacity of 250 MW; (g) a transformer hall; (h) a lower reservoir; (i) a ventilation shaft and ventilation building at the northern end of the lower reservoir; and (j) various ancillary access shafts and tunnels.

(4) *Stage 4 of the project would consist of the following features:* (a) An upper reservoir which would consist of the lower reservoir of Stage 2, located 1,700 feet below the ground surface. The upper reservoir would be filled to its full capacity with water pumped out of the Mount Hope Mine Complex and would provide total storage capacity of 4,250 to 4,900 acre-feet. During operation, the normal maximum water surface elevation in the upper reservoir would be 1,600 feet below the ground surface, and the normal minimum water surface elevation would be 1,700 feet below the ground surface; (b) the Mt. Hope inactive mine would provide access to the lower reservoir located at 2,500 feet below the ground surface and comprised of underground caverns; (c) a reinforced concrete intake/outtake structure capable of discharging 1,500 cfs; (d) a 10-foot-diameter, 1,100 foot-long reinforced concrete vertical intake shaft; (e) a 300-foot-long, 8-foot-diameter concrete-lined underground penstock; (f) a powerhouse machine hall approximately 2,800 feet below ground containing a reversible pump turbine with a total installed generating capacity of 250 MW; (g) a transformer hall; (h) a lower reservoir; (i) a ventilation shaft and ventilation building at the northern end of the lower reservoir; and (j) various ancillary access shafts and tunnels.

The rated capacity of the turbines and generators is one gigawatt. Upon completion of the four stages, the proposed project would generate a maximum of 2,080 gigawatt-hours annually. The proposed project would also include two parallel 10.60 mile-long, 500-kV transmission lines interconnecting with the proposed Jefferson Substation, located approximately 5.3 miles north-northwest of Mr. Hope Lake. The transmission line right-of-way would parallel an existing transmission line owned by Public Services Electric and Gas Company for 4.3 miles and would traverse mostly undeveloped forest lands, two lakes and five streams. The primary transmission line of the proposed project would be located in part on federal land. Specifically, the transmission line would traverse a portion of the northern and eastern edge of the U.S. Army's Picatinny Arsenal for a total of approximately 2.4 miles.

k. *Location of Applications:* A copy of the application is available for inspection and reproduction 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, 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 g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', 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. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. 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.

**Philis J. Posey,**

*Deputy Secretary.*

[FR Doc. E7–7514 Filed 4–19–07; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2007–0286; FRL–8302–2]**

## Agency Information Collection Activities; Proposed Collection; Comment Request; EPA's In-Use Vehicle Testing Programs; EPA ICR No. 0222.08, OMB Control No. 2060–0086

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on September 30, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before June 19, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0286, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Fax:* (202) 566–1741
- *Mail:* EPA–HQ–OAR–2007–0286, Environmental Protection Agency, Mailcode: 6102T, Docket1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Docket Center, (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0286. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification,

EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

**FOR FURTHER INFORMATION CONTACT:** Lynn Sohacki, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4851; fax number: 734–214–4869; e-mail address: *sohacki.lynn@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

**How Can I Access the Docket and/or Submit Comments?**

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0286, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

**What Information Is EPA Particularly Interested in?**

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

**What Should I Consider When I Prepare My Comments for EPA?**

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES.**

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

**What Information Collection Activity or ICR Does This Apply to?**

*Affected entities:* Entities potentially affected by this action are owners of motor vehicles.

*Title:* EPA's In-Use Vehicle and Engine Testing Programs.

*ICR numbers:* EPA ICR No. 0222.08, OMB Control No. 2060–0086.

*ICR status:* This ICR is currently scheduled to expire on September 30, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* EPA has ongoing programs to evaluate the emission performance of in-use light-duty (passenger car and light truck) motor vehicles, heavy-duty trucks, and nonroad vehicles and engines. These are referred to collectively as EPA's in-use vehicle testing programs. They operate in conjunction with testing of prototype vehicles prior to use (manufacturer and EPA confirmatory testing for certification) and the mandatory manufacturer's in-use testing program (IUVP) for light-duty vehicles. They derive from the Clean Air Act's charge that EPA insure that motor vehicles comply with emissions requirements throughout their useful lives. The primary purpose of the program is information gathering. Nevertheless, EPA can require a recall if it receives information, from whatever source, including in-use testing, that a ''substantial number'' of any class or category of vehicles or engines, although properly maintained and used, do not conform to the emission standards, when in actual use throughout their useful life.

The program has two components: Light-duty, and heavy-duty and nonroad. The light-duty component can be broken down into three closely-related headings. The first is a surveillance program that selects approximately 50 classes of passenger cars and light trucks for in-use testing, at EPA's testing facility, of approximately 150 vehicles (three in each class on average). In rare cases surveillance testing may be followed by compliance testing (only one such class in the last five years).The purpose of a compliance phase is to develop additional information related to test failures observed in a class during surveillance testing. The second heading is testing of a subset of approximately 35 vehicles from the surveillance recruitment for operation of on-board diagnostics (OBD) systems. The third category is special investigations involving testing of vehicles to address specific issues. The number of vehicles procured under this category varies widely from year to year, but this request asks for approval of the information burden corresponding to 25 such vehicles per year for the next three years.

Participation in the light-duty surveys, as well as the vehicle testing, is strictly voluntary. A group of 25 to 50 potential participants is identified from state vehicle registration records. They are asked to return a postcard indicating their willingness to participate and if so,

to verify some limited vehicle information. Three of those who return the card are called and asked about a half dozen questions concerning vehicle condition, and operation and maintenance. Additional groups of potential participants may be contacted until a sufficient number of vehicles has been obtained. Owners verify the survey information when they deliver their vehicles to EPA, voluntarily provide maintenance records for copying, and receive a loaner car or a cash incentive.

Procurement and testing are different for the heavy-duty and nonroad in-use testing program. All testing is done by installing ''Rover'' portable emissions monitoring devices on the vehicle or engine during a period of operation. Heavy-duty trucks, those commonly referred to as over ¾ ton capacity, are usually employed commercially; typically they are part of a fleet of identical (or very similar) vehicles. Consequently, EPA employs a slightly different method to obtain them. Potential owners/lessees can be found in registrations lists; engine manufacturers will also supply identities of their customers. In addition, EPA has a network of entities who have shown a willingness to participate over the years. Once a potential source is identified, EPA will make a brief telephone call to the fleet manager to ascertain if they wish to participate. If the response is positive, EPA's contractors will frequently visit the fleet to install the testing instruments at the company's service facility or government garage. Otherwise, the lessee will be within driving distance of the testing grounds and the devices will be installed there. The procedure for nonroad vehicles and engines (*e.g.*, farm tractors, compressors) is similar; in some cases the vehicle or engine may be rented for the day. Therefore, EPA makes far fewer inquires than with individual owners of light vehicles in the process of procuring an estimated 126 vehicles and engines a year for this program. As with the light-duty component, all participation is strictly voluntary.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.15 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.

The ICR Supporting Statement provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

*Estimated total number of potential respondents:* Approximately 4,411 owners/lessees receive EPA's solicitations to participate and approximately 336 do participate.

*Frequency of response:* On Occasion.

*Estimated total average number of responses for each respondent:* One.

*Estimated total annual burden hours:* 658.

*Estimated total annual costs:* $49,320. This includes an estimated burden cost of $49,320 and an estimated cost of $0 for capital investment or maintenance and operational costs.

**Are There Changes in the Estimates From the Last Approval?**

There is an increase of 58 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates based upon historical information on the scope of EPA's in-use testing programs and the number of vehicles and engines tested. **Note:** This ICR was previously titled, ''Investigation into Possible Noncompliance of Motor Vehicles''.

**What Is the Next Step in the Process for This ICR?**

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: April 16, 2007.

**Margo Tsirigotis Oge,**

*Director, Office of Transportation and Air Quality.*

[FR Doc. E7–7542 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER-FRL–6686–2]**

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 6, 2007 (72 FR 17156).

**Draft EISs**

EIS No. 20060469, ERP No. D–FHW–D40338–00, U.S. 301 Project Development, Transportation Improvements from MD State Line to DE–1, South of the Chesapeake and Delaware Canal, New Castle County, DE.

*Summary:* EPA expressed environmental concerns about wetland impacts and requested additional wetlands mitigation.

Rating EC2.

EIS No. 20070014, ERP No. D–FHW–F40439–WI, WI–15 Expansion, from New London to Greenville, Funding, U.S. Army COE 404 Permit, Outagamie County, WI.

*Summary:* EPA expressed environmental concerns about wetland and water quality impacts, air toxics, and noise exposure.

Rating EC2.

EIS No. 20070030, ERP No. D–IBR–J28022–00, Red River Valley Water Supply Project, Development and Delivery of a Bulk Water Supply to meet Long-Term Water Needs of the Red River Valley, Implementation, ND and MN.

*Summary:* EPA expressed environmental concerns about potential impacts of Missouri River Basin depletion and ecological impacts from potential introduction of invasive species. EPA provided recommendations for biota transfer water treatment, adaptive management, and drought contingency measures.

Rating EC1.

EIS No. 20070050, ERP No. D–FRC–G02015–00, East Texas to Mississippi Expansion Project, Construction and Operation of 243.3 miles Natural Gas Pipeline to Transport Natural Gas

from Production Fields in eastern Texas to Markets in the Gulf Coast, Midwestern, Northeastern and Southeastern United States.

*Summary:* EPA does not object to the proposed action, but suggests updating the air quality impact analysis.

Rating LO.

EIS No. 20070052, ERP No. D–NPS–D61059–PA, Valley Forge National Historical Park, General Management Plan, Implementation, King of Prussia, PA.

*Summary:* EPA expressed environmental concerns about potential adverse impacts of the proposed actions to water quality and wetlands. The Final EIS should detail how the two proposed bridges, removal of dams, potential for mobilization of contaminants in sediments behind the dam, increased stormwater flow and changing forested habitat to meadow will impact already impaired waters and wildlife habitat.

Rating EC2.

EIS No. 20070056, ERP No. D–FHW–G40193–LA, I–49 South Project, from Raceland to the Westbank Expressway Route U.S. 90, Funding, Coast Guard Bridge Permit, U.S. Army COE Section 10 and 404 Permits, Jefferson, Lafourche, and St. Charles Parishes, LA.

*Summary:* EPA does not object to the proposed action, but requests clarification on some air quality issues.

Rating LO.

EIS No. 20070070, ERP No. DA–AFS–K65283–CA, Empire Vegetation Management Project, Supplemental Information to Clarify Cumulative Effects Analysis, Mount Hough Ranger District, Plumas National Forest, Plumas County, CA.

*Summary:* EPA does not object to the proposed action, but requests clarification of monitoring and adaptive management issues.

Rating LO.

EIS No. 20060236, ERP No. DS–AFS–L65383–ID, Hidden Cedar Project, Updated Information, Manage Vegetation Conditions and the Transportation System, Idaho Panhandle National Forests, St. Joe Ranger District, Benewah, Latah and Shoshone Counties, ID.

*Summary:* EPA expressed environmental concerns about the potential adverse of water quality impacts due to the proposed increase in road miles which would occur in watersheds that are already impaired from existing high road densities, as well as past mining and grazing activities.

Rating EC2.

**Final EISs**

EIS No. 20070024, ERP No. F–AFS–D65033–PA, West Branch of Tionesta Project, Multiple Resource Management, Implementation Bradford Ranger District, Allegheny National Forest, Warren County, PA.

*Summary:* EPA does not object to the proposed project.

EIS No. 20070074, ERP No. F–SFW–K65493–CA, East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan, Implementation, Incidental Take Permit, Cities of Brentwood, Clayton, Oakley and Pittsburg, Contra Costa County, CA.

*Summary:* EPA's previous concerns have been addressed; therefore, EPA does not object to the proposed action.

EIS No. 20070076, ERP No. F–AFS–F65064–WI, Boulder Project, Timber Harvesting, Vegetation and Road Management, U.S. Army COE Section 404 Permit, Chequamegon-Nicolet National Forest, Lakewood-Laona Ranger District, Oconto and Langlade Counties, WI.

*Summary:* While the final EIS addressed EPA's request for additional analysis of cumulative impacts, EPA continues to have environmental concerns about the lack of specific habitat information.

EIS No. 20070081, ERP No. F–JUS–G81013–TX, Laredo Detention Facility, Proposed Contractor-Owned/Contractor-Operated Detention Facility, Implementation, Webb County, TX.

*Summary:* No formal comment letter was sent to the preparing agency.

EIS No. 20070082, ERP No. F–GSA–D81037–VA, Federal Bureau of Investigation (FBI) Central Records Complex, Alternative 4—Sempeles Site, Winchester, Frederick County, VA.

*Summary:* EPA does not object to the proposed action.

EIS No. 20070090, ERP No. F–AFS–J65462–00, Dakota Prairie Grasslands Noxious Weed Management Project, Implementation, Billings, Slope, Golden Valley, Sioux, Grant, McHenry, Ransom and Richland Counties, ND and Corson, Perkins, and Ziebach Counties, SD.

*Summary:* No formal comment letter was sent to the preparing agency.

Dated: April 17, 2007.

**Robert W. Hargrove,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. E7–7547 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6686–1]**

## Environmental Impacts Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements filed 04/09/2007 through 04/13/2007 pursuant to 40 CFR 1506.9.

EIS No. 20070144, Final EIS, AFS, CA, Brown Project, Proposal to Improve Forest Health by Reducing Overcrowded Forest Stand Conditions, Trinity River Management Unit, Shasta-Trinity National Forest, Weaverville Ranger District, Trinity County, CA, Wait Period Ends: 05/21/2007, Contact: Joyce Andersen 530–623–2121.

EIS No. 20070145, Draft Supplement, AFS, UT, Ogden Ranger District Travel Plan Revision, To Present Additional Analysis for Six Alternatives, Wasatch-Cache National Forest, Ogden Ranger District, Box Elder, Cache, Morgan, Weber and Rich Counties, UT, Comment Period Ends: 06/04/2007, Contact: Rick Vallejos 801–625–5112.

EIS No. 20070146, Final EIS, COE, CA, ADOPTION—Folsom Dam Safety and Flood Damage Reduction Project, Addressing Hydrologic, Seismic, Static, and Flood Management Issues, Sacramento, El Dorado and Placer Counties, CA, Wait Period Ends: 05/21/2007, Contact: Jane Rinck 916–557–6715.

EIS No. 20070147, Draft EIS, AFS, MT, Trapper Bunk House Land Stewardship Project, Reduce Risk from Stand-Replacing and Uncontrollable Fires, Improve Resiliency and Provide Forest Products, Fuel Reduction Research and Watershed Improvement, Bitterroot National Forest, Darby Ranger District, Ravalli County, MT, Comment Period Ends: 06/04/2007, Contact: Chuck Oliver 406–821–3913.

EIS No. 20070148, Final EIS, FHW, NC, US 64 Corridor Project, Transportation Improvements in the Vicinity of the City of Asheboro and Improved Access to the NC Zoological Park, Funding and COE Section 404 Permit, Transportation Improvement Program (TIP) Project No. R–2536, Randolph County, NC, Wait Period Ends: 05/21/2007, Contact: John F. Sullivan 919–856–4346.

EIS No. 20070149, Draft EIS, FRC, 00, Southeast Expansion Project,

Construction and Operation of 110.8 miles for Natural Gas Pipeline and Associated Ancillary Facilities, TX and LA , Comment Period Ends: 06/04/2007 Contact: Andy Black 1–866–208–3372.

EIS No. 20070150, Draft EIS, FRC, WI, Gurardian Expansion and Extension Project, Construction and Operation Natural Gas Pipeline Facilities, Jefferson, Dodge, Fond du Lac, Calument, Brown, Walworth, Outagamie Counties, WI, Comment Period Ends: 06/04/2007, Contact: Andy Black 1–866–208–3372.

EIS No. 20070151, Draft EIS, BLM, NV, White Pine Energy Station Project, Construction and Operation, Coal-fired Electric Power Generating Plant, White Pine County, NV, Comment Period Ends: 06/19/2007, Contact: Doris Metcalf 775–289–1852.

EIS No. 20070152, Draft EIS, GSA, OH, Cincinnati National Institute for Occupational Safety and Health (NIOSH) Laboratories Consolidation, Site Selection, Hamilton and Clermont Counties, OH, Comment Period Ends: 06/04/2007, Contact: Phil Youngberg 404–433–83–93.

EIS No. 20070153, Draft EIS, BLM, NM, Socorro Resource Management Plan Revision, Implementation, Socorro and Catron Counties, NM, Comment Period Ends: 07/19/2007, Contact: Brian Bellew 505–838–1273.

EIS No. 20070154, Draft EIS, NOA, 00, Amendment 27 to the Reef Fish Fishery Management Plan and Amendment 14 to the Shrimp Fishery Management Plan, To Address Stock Rebuilding and Overfishing of Red Snapper, Gulf of Mexico, Comment Period Ends: 06/04/2007, Contact: Roy E. Crabtree 727–824–5701.

EIS No. 20070155, Draft EIS, COE, GA, Fort Benning U.S. Army Reserve Center, Base Realignment and Closure (BRAC) 2005 and Transformation Actions, Chattahoochee and Muscogee Counties, GA, Comment Period Ends: 06/04/2007, Contact: John Brent 706–545–2180.

EIS No. 20070156, Final EIS, NOA, CA, Channel Islands National Marine Sanctuary (CINMS) Project, Establishment of No-Take and Limited-Take Marine Zones, Protection of Sanctuary Biodiversity, CA, Wait Period Ends: 05/21/2007, Contact: Chris Mobley 805–966–7107.

**Amended Notices**

EIS No. 20070063, Draft Supplement, USN, 00, Introduction of F/A 18 E/F (Super Hornet) Aircraft, Updated Information, Construction and Operation of an Outlying Landing Field, Naval Air Station (NAS) Oceana, VA; Marine Corps Air Station (MCAS) Cherry Point, NC, Wait Period Ends: 05/19/2007, Contact: Francine Blend 757–322–4332. Revision to FR Notice Published 02/23/2007: Extending Comment Period from 04/24/2007 to 05/19/2007.

EIS No. 20070115, Draft EIS, FAA, FL, Fort Lauderdale-Hollywood International Airport, Proposed Development and Extension of Runway 9R/27L and other Associated Airport Projects, Funding, U.S. Army COE Section 404 Permit and NPDES Permit, Fort Lauderdale, Broward County, FL, Wait Period Ends: 05/21/2007, Contact: Virginia Lane 407–812–6331 Ext. 129.

*Revision to FR Notice Published 03/30/2007:* Extending Comment Period from 05/14/2007 to 05/21/2007.

Dated: April 17, 2007.

**Robert W. Hargrove,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. E7–7543 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2007–0333; FRL–8126–3]**

## Pesticide Program Dialogue Committee; Notice of Public Meetings

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

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, EPA gives notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC) on May 9 and 10, 2007. In addition, the PPDC Worker Safety Work Group will meet prior to the PPDC meeting on May 8, 2007. The agenda is being developed and will include reports from the following PPDC Work Groups: Spray Drift/NPDES; PRIA Process Improvements; Registration Review Implementation; AZM Transition Issues; Performance Measures; and Worker Safety. Program updates will also be included for Registration and Reregistration/Tolerance Reassessment.

**DATES:** The PPDC meeting will be held on Wednesday, May 9, 2007, from 9 a.m. to 5 p.m., and Thursday, May 10, from 8:30 a.m. to 12:30 p.m. The PPDC Worker Risk Work Group will meet on Tuesday, May 8, 2007, from 9 a.m. to 4:30 p.m.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

**ADDRESSES:** The meeting will be held at EPA's Conference Center, Lobby Level, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This location is approximately a half mile from the Crystal City Metro Station.

**FOR FURTHER INFORMATION CONTACT:** Margie Fehrenbach, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–4775; fax number: (703) 308–4776; e-mail address:*fehrenbach.margie@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–0333. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory

Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this**Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at*http://www.epa.gov/fedrgstr*.

A draft agenda has been developed and is posted on EPA's web site at:*http://www.epa.gov/pesticides/ppdc/*.

**II. Background**

The Office of Pesticide Programs is entrusted with the responsibility to help ensure the safety of the American food supply, the education and protection from unreasonable risk of those who apply or are exposed to pesticides occupationally or through use of products, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

The Charter for EPA's Pesticide Program Dialogue Committee (PPDC) was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995, and has been renewed every 2 years since that time. PPDC's Charter was renewed November 5, 2005, for another 2–year period. The purpose of PPDC is to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. It is determined that PPDC is in the public interest in connection with the performance of duties imposed on the Agency by law. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest, consumer, and animal rights groups; farm worker organizations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Copies of the PPDC Charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

**III. How Can I Request to Participate in this Meeting?**

PPDC meetings are open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting.

**List of Subjects**

Environmental protection, Agriculture, Agricultural workers, Chemicals, Foods, Pesticides and pests, Public health.

Dated: April 13, 2007.

**Marty Monell,**

*Acting Director, Office of Pesticide Programs.*

[FR Doc. E7–7551 Filed 4–19–07; 8:45 am]

**BILLING CODE 6560–50–S**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 7, 2007.

**A. Federal Reserve Bank of Chicago** (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

*1. Randall R. Schwartz*, Orland Park, Illinois; Susan M. Schwartz, Orland Park, Illinois; Richard H. Schwartz, Lemont, Illinois; Esther V. Schwartz, Lemont, Illinois; Clarence J. Ludwig, Sarasota, Florida; Mary Lou Ludwig, Sarasota, Florida; William D. Ludwig, Lincoln, Nebraska, Linda S. Macaskill, Sarasota, Florida; and John D. Macaskill, Sarasota, Florida; to retain at least 25 percent of the voting shares of First Personal Financial Corp., Orland Park, Illinois, and thereby indirectly retain voting shares of First Personal Bank, Orland Park, Illinois.

**B. Federal Reserve Bank of Kansas City** (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

*1. Richard W. Willhour, Jr.*, Inola, Oklahoma; and Tommy L. Woods, Tulsa, Oklahoma, to individually control, and by Richard W. Willhour, Jr., Inola, Oklahoma; Tommy L. Woods, Thomas J. O'Brien, Matthew Q. Klimisch, and John R. Woolman, all of Tulsa, Oklahoma; Stephen M. Murphy and Curtis L. Roberts, both of Jenks, Oklahoma, all acting as a group in concert to acquire voting shares of CNBO Bancorp, Inc., Pryor, Oklahoma, and thereby indirectly acquire voting shares of Century National Bank of Oklahoma, Pryor, Oklahoma.

Board of Governors of the Federal Reserve System, April 17, 2007.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E7–7538 Filed 4–19–07; 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 Web site 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 17, 2007.

**A. Federal Reserve Bank of Atlanta** (David Tatum, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

*1. Palm Bancorp, Inc.*, Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The Palm Bank, Tampa, Florida.

**B. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

*1. First American Investment, Inc.*, Lake Elmo, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First American Bank, National Association, Hudson, Wisconsin (in organization).

Board of Governors of the Federal Reserve System, April 17, 2007.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E7–7537 Filed 4–19–07; 8:45 am]

**BILLING CODE 6210–01–S**

## FEDERAL TRADE COMMISSION

**[File No. 071 0063]**

### Actavis Group hf. and Abrika Pharmaceuticals, Inc.; Analysis of Agreement Containing Consent Order To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis To Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before May 14, 2007.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to ''Actavis Group, *et al.*, File No. 071 0063,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.*

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

**FOR FURTHER INFORMATION CONTACT:** Kari Wallace, (202) 326–3085, Bureau of Competition, Room NJ–5108, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis To Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 16, 2007), on the World Wide Web, at *http://www.ftc.gov/os/2007/04/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

### Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from Actavis Group hf. (''Actavis''), which is designed to remedy the anticompetitive effects of the acquisition of Abrika Pharmaceuticals, Inc. (''Abrika'') by Actavis. Under the terms of the proposed Consent Agreement, the company would be required to assign and divest the Abrika rights and assets necessary to manufacture and market generic isradipine capsules to Cobalt Laboratories, Inc. (''Cobalt''), the U.S. subsidiary of Arrow Group.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make final the Decision and Order (''Order'').

Pursuant to an Agreement and Plan of Merger executed on November 20, 2006, Actavis proposes to acquire all of the voting securities of Abrika for $235 million. The Commission's Complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by lessening competition in the U.S. markets for the manufacture and sale of generic isradipine capsules. The proposed Consent Agreement will remedy the alleged violation by replacing the lost competition that would result from the acquisition in this market.

Actavis is a leading developer, manufacturer, marketer, and distributor of generic pharmaceutical drugs. Headquartered in Iceland, Actavis sells generic pharmaceuticals in over 30 countries and has manufacturing facilities in Europe, the United States,

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

and Asia. Abrika is a Sunrise, Florida based specialty generic pharmaceutical company engaged in the formulation and commercialization of both controlled release and immediate release products.

**Generic Isradipine Capsules**

Isradipine belongs to a group of drugs known as calcium channel blockers. Calcium is involved in blood vessel contraction, and by blocking calcium, isradipine relaxes and widens the blood vessels, thereby lowering blood pressure, preventing spasms of the blood vessels of the heart and reducing the oxygen needs of the heart muscle. Isradipine is typically prescribed to patients as a blood pressure lowering medication, and is also used to treat hypertension, ischemia and depression. Generic isradipine was first introduced in the United States in 2006. Sales in that year totaled approximately $3 million.

Actavis and Abrika are the only two companies selling generic isradipine capsules in the United States. The number of generic suppliers has a direct and substantial effect on generic pricing, as each additional generic supplier can have a competitive impact on the market. Because there are multiple generic equivalents for isradipine capsules, the branded version no longer significantly constrains the generic's pricing.

Entry into the market for the manufacture and sale of generic isradipine capsules would not be timely, likely, or sufficient in its magnitude, character, and scope to deter or counteract the anticompetitive effects of the acquisition. Entry would not take place in a timely manner because the combination of generic drug development times and FDA drug approval requirements takes at least two years. Entry would not be likely because the relevant market is relatively small and in decline, limiting sales opportunities for any new entrant.

The proposed acquisition would cause significant anticompetitive harm to consumers in the U.S. market for the manufacture and sale of generic isradipine capsules. The acquisition would eliminate Abrika as a competitor and create a monopoly in the market for the manufacture and sale of generic isradipine capsules. The evidence indicates that the presence of more than one competitor allows customers to negotiate lower prices and that the reduction in the number of competitors in this market would allow the merged entity to unilaterally exercise market power with a resulting increase in prices.

**The Consent Agreement**

The proposed Consent Agreement effectively remedies the proposed acquisition's anticompetitive effects in the relevant product market. Pursuant to the Consent Agreement, Actavis and Abrika are required to divest certain rights and assets related to the generic isradipine capsules to a Commission-approved acquirer no later than ten (10) days after the acquisition. Specifically, the proposed Consent Agreement requires that Abrika divest its rights and assets relating to generic isradipine capsules to Cobalt.

The acquirer of the divested assets must receive the prior approval of the Commission. The Commission's goal in evaluating a possible purchaser of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed acquirer of divested assets must not itself present competitive problems.

Cobalt, which specializes in the sale and marketing of generic pharmaceuticals, is the United States arm of the Arrow Group, a private multinational that employs over 700 individuals. The Arrow Group has experience in the development, manufacturing, and sale of pharmaceuticals and has production facilities in Canada, Malta, Australia and Brazil. Cobalt is an acceptable acquirer of generic isradipine because it has experience in distributing and marketing generic pharmaceutical products in the United States. Currently, the company has received FDA approval for the sale of nine generic products. The acquisition by Cobalt does not present a competitive problem in the generic isradipine market because Cobalt currently does not participate in the market and has no independent plans to enter. With its resources, sales and marketing capabilities, and experience with generic products, Cobalt should be successful in restoring the competition that would be lost if the proposed Actavis/Abrika transaction were to proceed unremedied.

If the Commission determines that Cobalt is not an acceptable acquirer of the assets to be divested, or that the manner of the divestitures to Cobalt is not acceptable, the parties must unwind the sale and divest the assets within six (6) months of the date the Order becomes final to another Commission-approved acquirer. If the parties fail to divest within six (6) months, the Commission may appoint a trustee to divest the generic isradipine capsule assets.

The proposed remedy contains provisions to ensure that the divestitures are successful. Abrika's isradipine product is manufactured for Abrika by a third-party manufacturer. As part of the divestiture, Abrika will transfer its supply arrangement to Cobalt. Actavis and Abrika will transfer all confidential business information related to Abrika's isradipine product to Cobalt. Finally, Actavis and Abrika will provide technical assistance to Cobalt to allow it to manufacture isradipine in substantially the same manner and quality employed or achieved by Abrika.

The Commission has appointed Denise F. Smart of Smart Consulting Group, LLC as the Interim Monitor to oversee the asset transfer and to ensure Actavis and Abrika's compliance with all of the provisions of the proposed Consent Agreement. Ms. Smart has over twenty years of experience in the pharmaceutical industry. Her experience includes providing consulting services in healthcare business development and regulatory compliance to major pharmaceutical companies, biotechnology companies and medical device companies. In order to ensure that the Commission remains informed about the status of the proposed divestitures and the transfers of assets, the proposed Consent Agreement requires Actavis and Abrika to file reports with the Commission periodically until the divestitures and transfers are accomplished.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. E7–7478 Filed 4–19–07; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Health Promotion and Disease Prevention Research Centers, Special Interest Project Competitive Supplements (Panels 5–6), Request for Applications (RFA) DP07–002

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease

Control and Prevention (CDC) announces the aforementioned meeting.

*Time and Date:* 1 p.m.–4 p.m., June 11, 2007 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters to be Discussed:* The meeting will include the review, discussion, and evaluation of ''Health Promotion and Disease Prevention Research Centers, Special Interest Project Competitive Supplements (Panels 5–6),'' RFA DP07–002.

*Contact Person for More Information:* Susan Goodman, D.D.S., Scientific Review Administrator, Office of the Chief Science Officer, CDC, 1600 Clifton Road NE., Mailstop D74, Atlanta, GA 30333, Telephone 404–639–4940.

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 13, 2007.

**Elaine L. Baker,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E7–7500 Filed 4–19–07; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Health Promotion and Disease Prevention Research Centers: Special Interest Project Competitive Supplements (Panels 1–4), Request for Applications (RFA) DP07–002

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.

*Time and Date:* 8:30 a.m.–5 p.m., June 19, 2007 (Closed).

*Place:* Doubletree Buckhead, 3342 Peachtree Road, NE., Atlanta, Georgia 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 ''Health Promotion and Disease Prevention Research Centers, Special Interest Project Competitive Supplements (Panels 1–4),'' RFA DP07–002.

*Contact Person for More Information:* Juliana Cyril, M.P.H., PhD., Associate Director for Policy and Peer Review, Office of the Chief Science Officer, CDC, 1600 Clifton Road NE., Mailstop D74, Atlanta, GA 30333, Telephone 404–639–4939.

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 13, 2007.

**Elaine L. Baker,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E7–7502 Filed 4–19–07; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): The Sexual Networks of African American STI Repeaters, an Elaboration of Risk, Potential Extramural Project (PEP) 2007–R–01 and Dynamic Mathematical Modeling of Sexual Transmission of C. Trachomatis Transmission in the United States, Evaluating Impact on Prevention Strategies on Chlamydial Incidence, Prevalence and Sequelae, PEP 2007–R–02

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

*Time and Date:* 12 p.m.–2 p.m., May 15, 2007 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters to be Discussed:* The meeting will include the review, discussion, and evaluation of ''The Sexual Networks of African American STI Repeaters, an Elaboration of Risk,'' PEP 2007–R–01, and ''Dynamic Mathematical Modeling of Sexual Transmission of C. Trachomatis Transmission in the United States, Evaluating Impact on Prevention Strategies on Chlamydial Incidence, Prevalence and Sequelae,'' PEP 2007–R–02.

*Contact Person for More Information:* Susan Goodman, D.D.S., Scientific Review Administrator, Office of the Chief Science Officer, CDC, 1600 Clifton Road NE., Mailstop D74, Atlanta, GA 30333, Telephone 404–639–4940.

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 13, 2007.

**Elaine L. Baker,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E7–7503 Filed 4–19–07; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Health Promotion and Disease Prevention Research Centers, Special Interest Project Competitive Supplements (Panels 9–11), Request for Applications (RFA) DP07–002

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

*Time and Date:* 8:30 a.m.–5 p.m., June 18, 2007 (Closed).

*Place:* Doubletree Buckhead, 3342 Peachtree Road NE, Atlanta, GA 30326, telephone 404–321–1234.

*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 Pub. L. 92–463.

*Matters to be Discussed:* The meeting will include the review, discussion, and evaluation of ''Health Promotion and Disease Prevention Research Centers, Special Interest Project Competitive Supplements (Panels 9–11),'' RFA DP07–002.

*Contact Person for More Information:* Juliana Cyril, M.P.H., PhD, Scientific Review Administrator, Office of the Chief Science Officer, CDC, 1600 Clifton Road NE., Mailstop D74, 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.

**Elaine L. Baker,**

*Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.*

[FR Doc. E7–7506 Filed 4–19–07; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Minority HIV/AIDS Research Initiative To Build Capacity in Black and Hispanic Communities and Among Black and Hispanic Researchers To Conduct HIV/AIDS Epidemiologic and Prevention Research, Funding Opportunity Announcement (FOA) Number PS07–003

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.

*Time and Date:* 8:30 a.m.–9 a.m., May 17, 2007 (Open). 9 a.m.–4 p.m., May 17, 2007 (Closed).

*Place:* Sheraton Midtown Atlanta Hotel at Colony Square, 188 14th Street, Atlanta, GA 30361.

*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 research applications received in response to FOA PS07–003, ''Minority HIV/AIDS Research Initiative to Build Capacity in Black and Hispanic Communities and Among Black and Hispanic Researchers to Conduct HIV/AIDS Epidemiologic and Prevention Research.''

*For Further Information Contact:* J. Felix Rogers, PhD, M.P.H., Scientific Review Administrator, Extramural Research Program Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS E05, Atlanta, GA 30333, telephone 404.639.6101.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 16, 2007.

**Elaine L. Baker,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E7–7520 Filed 4–19–07; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10217, CMS–R–297 and CMS–10223]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Physician Survey for the 2006 Medicare Oncology Demonstration Program; *Form Numbers:* CMS–10217 (OMB#: 0938–New); *Use:* The 2006 Oncology Demonstration Program aimed to: (1) Have oncology payments increasingly focused on patient-centered care, rather than chemotherapy administration; (2) learn to what extent Medicare beneficiaries are being treated in a manner that yields the best outcomes; (3) understand clinical cancer scenarios where there is not clinical consensus among physicians on the relevance of specific evidence-based practice guidelines; and, (4) ensure that due emphasis is placed on multi-disciplinary, comprehensive approach to palliation and end of life care. In addition, CMS hoped to reduce the potential that unnecessary services and tests are being performed, thereby lowering program costs while yielding better quality of life for Medicare beneficiaries with cancer. This survey will provide information on how physicians, particularly oncologists and hematologists, adapted their practice in response to the CMS payment incentive, to guide future CMS demonstration projects involving oncologists and all specialists. *Frequency:* Reporting—Once; *Affected Public:* Individuals or households; *Number of Respondents:* 600; *Total Annual Responses:* 600; *Total Annual Hours:* 100.

2. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Request for Employment Information; *Form Numbers:* CMS–R–297 (OMB#: 0938–0787); *Use:* Section 1837(i) of the Social Security Act provides for a special enrollment period for individuals who delay enrolling in Medicare Part B because they are covered by a group health plan based on their own or a spouse's current employment status. When these individuals apply for Medicare Part B, they must provide proof that the group health plan coverage is (or was) based on current employment status. This form is used by the Social Security Administration to obtain information from employers regarding whether a Medicare beneficiary's coverage under a group health plan is based on current employment status. *Frequency:* Reporting—Once; *Affected Public:* Business or Other for profit and Not-for-profit institutions; *Number of Respondents:* 5000; *Total Annual Responses:* 5000; *Total Annual Hours:* 1250.

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Medicare Competitive Acquisition Program (CAP) for Part B Drugs Evaluation: CAP Physician Survey; *Form Numbers:* CMS–10223 (OMB#: 0938–New); *Use:* This physician survey is part of an overall evaluation of the Centers for Medicare and Medicaid Services congressionally mandated Competitive Acquisition for Part B Drugs and Biologicals Program (CAP). Medicare Prescription Drug Improvement and Modernization Act (MMA) section 303(d) requires the implementation of the CAP for those drugs and biologicals covered by Medicare part B that are not paid on a cost or prospective payment system. Since July 1, 2006, physicians have been given a choice between (1) Buying and billing for these covered drugs under the average sales price (ASP) system mandated in section

303(c) of the MMA; or (2) obtaining these drugs from vendors selected for the CAP in a competitive bidding process. If the physician elects to obtain drugs from a CAP vendor, the vendor, rather than the physician, will bill Medicare for the drug. The CAP is therefore a major change in the way Part B-covered drugs and biologicals are acquired and reimbursed for, requiring CMS to consider many design options. The CAP mandate includes a Report to Congress due July, 1 2008, which will include results from this physician survey; *Frequency:* Reporting—Once; *Affected Public:* Business or Other for-profits; *Number of Respondents:* 1560; *Total Annual Responses:* 1560; *Total Annual Hours:* 297.50.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on June 19, 2007.

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—C, Attention: Bonnie L Harkless, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 13, 2007.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. E7–7423 Filed 4–19–07; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Grant Application Data Summary (GADS) Form.

*OMB No.:* New Collection.

*Description:* The Grant Application Data Summary (GADS) collects information from applicants seeking grants from the Administration for Native Americans (ANA). ANA awards annual grants in three competitive areas. Previously, ANA collected information using a separate form for each competitive area (OMB No. 0970–0261, OMB No. 0970–0263, and OMB No. 0970–0265). ANA has consolidated the three previous information collections into the single GADS instrument.

*Respondents:* Tribal Governments, Native Non-profits, Tribal Colleges and Universities.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Grant Application Summary | 500 | 1 | .5 | 250 |

Estimated Total Annual Burden Hours: 250.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov*.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: April 16, 2007.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 07–1965 Filed 4–19–07; 8:45 am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Protection and Advocacy (P&A) Voting Access Annual Report.

*OMB No.:* New Collection.

*Description:* An annual report is required by Federal statute (the Help America Vote Act (HAVA) of 2002, Public Law 107–252, Section 291, Payments for Protection and Advocacy Systems, 42 U.S.C. 15461). Each State Protection & Advocacy (P&A) System must prepare and submit an annual report at the end of every fiscal year. The report addresses the activities conducted with the funds provided during the year. The information from the annual report will be aggregated into an annual profile of how HAVA funds have been spent. The report will also provide an overview of the P&A goals and accomplishments and permit the Administration on Developmental Disabilities to track progress to monitor grant activities.

*Respondents:* Protection & Advocacy Systems—All States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, American Samoa, and Guam.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Protection and Advocacy (P&A) Voting Access Annual Report | 55 | 1 | 16 | 880 |

*Estimated Total Annual Burden Hours:* 880.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for ACF.

Dated: March 15, 2007.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 07–1976 Filed 4–19–07; 8:45 am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Help America Vote Act (HAVA) Voting Access Annual Report.

*OMB No.:* New Collection.

*Description:* An annual report is required by Federal statute (the Help America Vote Act (HAVA) of 2002, Public Law 107–252, Section 291, Payments for Protection and Advocacy Systems, 42 U.S.C. 15461). Each State or Unit of Local Government must prepare and submit an annual report at the end of every fiscal year. The report addresses the activities conducted with the funds provided during the year. The information collected from the annual report will be aggregated into an annual profile of how States have utilized the funds and establish best practices for election officials. It will also provide an overview of the State election goals and accomplishment and permit the Administration on Developmental Disabilities to track voting progress to monitor grant activities.

*Respondents:* Secretaries of State, Directors, State Election Boards, State Chief Election officials.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Help America Vote Act (HAVA) Voting Access Annual Report ..... | 55 | 1 | 24 | 1,320 |

*Estimated Total Annual Burden Hours:* 1,320.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after the publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collected should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: March 15, 2007.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 07–1977 Filed 4–19–07; 8:45am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Preparation for International Conference on Harmonization Meetings in Brussels, Belgium; Public Meeting

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

**ACTION:** Notice of meeting.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public meeting entitled ''Preparation for ICH meetings in Brussels, Belgium'' to provide information and receive comments on the International Conference on Harmonization (ICH) as well as the upcoming meetings in Brussels, Belgium. The topics to be discussed are the topics for discussion at the forthcoming ICH Steering Committee Meeting. The purpose of the meeting is to solicit public input prior to the next Steering Committee and Expert Working Groups meetings in Brussels, Belgium, May 5 through 10, 2007, at which discussion of the topics underway and the future of ICH will continue.

*Date and Time*: The meeting will be held on Thursday, May 3, 2007, from 11:30 a.m. to 1 p.m.

*Location*: The meeting will be held at 5600 Fishers Lane, 3rd floor, Conference Room D, Rockville, MD 20857. For security reasons, all attendees are asked to arrive no later than 11:20 a.m., as you will be escorted from the front entrance of 5600 Fishers Lane to Conference Room D.

*Contact Person*: All participants must register with Tammie Bell, Office of the Commissioner, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, e-mail: *Tammie.Bell2@fda.hhs.gov* or fax: 301–827–0003.

*Registration and Requests for Oral Presentations*: Send registration information (including name, title, firm name, address, telephone, and fax number), written material and requests to make oral presentations, to the contact person by April 20, 2007.

If you need special accommodations due to a disability, please contact Tammie Bell at least 7 days in advance.

*Transcripts*: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

**SUPPLEMENTARY INFORMATION:** The ICH was established in 1990 as a joint

regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan and the United States without compromising the regulatory obligations of safety and effectiveness.

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for medical product development among regulatory agencies. ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labor and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA). The ICH Steering Committee includes representatives from each of the ICH sponsors and Health Canada, the European Free Trade Area and the World Health Organization. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the three ICH regions.

The current ICH process and structure can be found at the following Web site: *http://www.ich.org*.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Oral presentations from the public will be scheduled between approximately 4:30 p.m. and 5 p.m. Time allotted for oral presentations may be limited to 10 minutes. Those desiring to make oral presentations should notify the contact person by April 27, 2007, and submit a brief statement of the general nature of the evidence or arguments they which to present, the names and addresses, phone number, fax, and e-mail of proposed participants, and an indication of the approximate time requested to make their presentation.

The agenda for the public meeting will be made available via the internet at *http://www.fda.gov/cder/meeting/ICH_20060508.htm*.

Dated: April 12, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 07–1952 Filed 4–16–07; 3:25 pm]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### National Vaccine Injury Compensation Program: Addition of Meningococcal and Human Papillomavirus (HPV) Vaccines to the Vaccine Injury Table

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** Through this notice, the Secretary announces that meningococcal (conjugate and polysaccharide) and human papillomavirus (HPV) vaccines are covered vaccines under the National Vaccine Injury Compensation Program (VICP), which provides a system of no-fault compensation for certain individuals who have been injured by covered childhood vaccines. This notice serves to include meningococcal and HPV vaccines as covered vaccines under Category XIV (new vaccines) of the Vaccine Injury Table (Table), which lists the vaccines covered under the VICP. This notice ensures that petitioners may file petitions relating to meningococcal and HPV vaccines with the VICP even before such vaccines are added as separate and distinct categories to the Table through rulemaking.

**DATES:** This notice is effective on April 20, 2007. As described below, meningococcal and HPV vaccines are covered under the VICP as of February 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey Evans, M.D., Division Director, Division of Vaccine Injury Compensation, Healthcare Systems Bureau, Health Resources and Services Administration, Parklawn Building, Room 11C–26, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number (301) 443–6593.

**SUPPLEMENTARY INFORMATION:** The statute authorizing the VICP provides for the inclusion of additional vaccines in the VICP when they are recommended by the Centers for Disease Control and Prevention (CDC) for routine administration to children. See section 2114(e)(2) of the Public Health Service (PHS) Act, 42 U.S.C. 300aa–14(e)(2). Consistent with section 13632(a)(3) of Pub. L. 103–66, the regulations governing the VICP provide that such vaccines will be included as covered vaccines in the Table as of the effective date of an excise tax to provide funds for the payment of compensation with respect to such vaccines (42 CFR 100.3(c)(5)).

The two prerequisites for adding meningococcal (conjugate and polysaccharide) and HPV vaccines to the VICP as covered vaccines as well as to the Table have been satisfied. In its May 27, 2005, issue of the Morbidity and Mortality Weekly Report (MMWR), the CDC published its recommendation that meningococcal conjugate vaccines be routinely administered to young adolescents at the pre-adolescent visit (11–12 years olds). Additionally, for those individuals who have not previously received the meningococcal conjugate vaccine, the CDC has recommended vaccination before high school entry to further reduce the incidence of meningococcal disease in adolescents and young adults. The CDC also recommends routine vaccination for college freshmen who live in dormitories because they are at higher risk for meningococcal disease when compared with same aged cohorts. The use of meningococcal conjugate vaccine is preferred among persons aged 11–55 years. If meningococcal conjugate vaccine is unavailable, meningococcal polysaccharide vaccine is an acceptable alternative for persons aged 11–55 years. Meningococcal polysaccharide vaccine is also recommended for children aged 2–10 years and persons aged 55 years and older who are at increased risk for meningococcal disease.

In its March 23, 2007, issue of the MMWR, the CDC published its recommendation that the HPV vaccine be routinely administered to females aged 11–12 years. The HPV vaccine can be administered to females as young as 9 years. Vaccination is recommended for females aged 13–26 years who have not previously received the vaccine or who have not completed the full series.

On December 20, 2006, the excise tax legislation for meningococcal and HPV vaccines was enacted by Pub. L. 109–432, the ''Tax Relief and Health Care Act of 2006 (the Act).'' Section 408 of this Act adds all meningococcal and

HPV vaccines to section 4132(a)(1) of the Internal Revenue Code of 1986, as amended, which defines all taxable vaccines.

Under the regulations governing the VICP, Category XIV of the Table specifies that ''[a]ny new vaccine recommended by the [CDC] for routine administration to children, after publication by the Secretary of a notice of coverage'' is a covered vaccine under the Table (42 CFR 100.3(a), Item XIV). As explained above, the CDC issued its recommendation. This notice serves to satisfy the regulation's publication requirement. Through this notice, meningococcal and HPV vaccines are included as covered vaccines under Category XIV of the Table.

Under section 2114(e) of the PHS Act, as amended by section 13632(a) of the Omnibus Budget Reconciliation Act of 1993, coverage for a vaccine recommended by the CDC for routine administration to children shall take effect upon the effective date of the tax enacted to provide funds for compensation with respect to the vaccine included as a covered vaccine in the Table. Under section 408 of the Tax Relief and Health Care Act of 2006, the effective date for the excise taxes enacted for meningococcal vaccines against meningococcal disease and the HPV vaccine against HPV disease and infection applies to sale and uses on or after ''the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.'' It further provides that if the vaccines were sold on or before the effective date of the excise tax, but delivered after this date, the delivery date of such vaccines shall be considered the sale date.

Under this authorizing statutory language, the effective date for coverage of the meningococcal and HPV vaccines under the VICP is February 1, 2007. Thus, meningococcal and HPV vaccines are included as covered vaccines under Category XIV of the Table as of February 1, 2007. Petitioners may file petitions related to meningococcal and HPV vaccines as of February 1, 2007.

Petitions filed concerning vaccine-related injuries or deaths associated with meningococcal and HPV vaccines must be filed within the applicable statute of limitations. The filing limitations applicable to petitions filed with the VICP are set out in section 2116(a) of the PHS Act (42 U.S.C. 300aa–16(a)). Persons who may be eligible must file petitions within: three (3) years from the first symptom or manifestation of onset of an injury or of the significant aggravation of the injury; or two (2) years from the date of a vaccine-related death and four (4) years after the start of the first symptom of the vaccine-related injury from which the death occurred.

In addition, section 2116(b) of the PHS Act lays out specific exceptions to these statutes of limitations that apply when the effect of a revision to the Table makes a previously ineligible person eligible to receive compensation or when an eligible person's likelihood of obtaining compensation significantly increases. Under this provision, persons who may be eligible to file petitions based on the addition of a new vaccine under Category XIV of the Table may file a petition for compensation not later than 2 years after the effective date of the revision if the injury or death occurred not more than 8 years before the effective date of the revision of the Table (42 U.S.C. 300aa–16(b)). Thus, persons whose petitions may not be timely under the limitations periods described in section 2116(a) of the PHS Act, may still file petitions concerning vaccine-related injuries or deaths associated with meningococcal and HPV vaccines until February 2, 2009, as long as the vaccine-related injury or death occurred on or after February 1, 1999 (8 years prior to the effective date of the addition that included meningococcal vaccines and HPV as covered vaccines). Although two years from the date of February 1, 2007, would be February 1, 2009, under the current Rules of the United States Court of Federal Claims, the deadline under section 2116(b) of the PHS Act would be February 2, 2009, because February 1, 2009, falls on a Sunday.

The Secretary plans to amend the Table through the rulemaking process by including meningococcal and HPV vaccines as separate categories of vaccines in the Table. February 1, 2007, will remain the applicable effective date when the Secretary makes a corresponding amendment to add meningococcal and HPV vaccines as separate categories on the Table through rulemaking.

Dated: April 16, 2007.

**Elizabeth M. Duke,**

*Administrator.*

[FR Doc. E7–7591 Filed 4–19–07; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 Advisory Council.

*Date:* June 5, 2007.

*Open:* 8:30 a.m. to 12 p.m.

*Agenda:* To discuss program policies and issues.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

*Closed:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

*Contact Person:* Stephen Mockrin, PhD., Director, Division of Extramural Research Activities, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260, *mockrins@nhlbi.nih.gov.*

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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *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 12, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07–1964 Filed 4–19–07; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council on Aging.

*Date:* May 15–16, 2007.

*Closed:* May 15, 2007, 3 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, 9000 Rockville Pike, Conference Room 6, Rockville, MD 20892.

*Open:* May 16, 2007, 8 a.m. to 1 p.m.

*Agenda:* Call to Order, Task Force on Minority Aging Research Report; Working Group on Program Report; and Program Highlights.

*Place:* National Institutes of Health, Building 31, 9000 Rockville Pike, Conference Room 6, Rockville, MD 20892.

*Contact Person:* Robin Barr, PhD, Director, Office of Extramural Affairs, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg., Suite 2C218, Bethesda, MD 20814, 301–496–9322.

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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/nia/naca/*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 12, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07–1960 Filed 4–19–07; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; 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 section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Neural and Behavioral Studies in Aging.

*Date:* April 20, 2007.

*Time:* 1 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Louise L. Hsu, PhD., Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–7705, *hsul@exmur.nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Loan Repayment.

*Date:* April 27, 2007.

*Time:* 8 a.m. to 12 p.m.

*Agenda:* To review and evaluate loan Repayment.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* William Cruse, PhD., Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7704, *Crucew@nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Cognitive Aging in Prefrontal Cortex.

*Date:* May 4, 2007.

*Time:* 9:30 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Elaine Lewis, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Thrombosis RFA Review.

*Date:* May 7–8, 2007.

*Time:* 6 p.m. to 11 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Bethesda Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7700, *rv23@nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Thrombosis RFA Review

*Date:* May 8, 2007.

*Time:* 12 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Bethesda Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7700, *rv23@nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Ischemia.

*Date:* May 9, 2007.

*Time:* 11 a.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue 2C212, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Mary Nekola, PhD, Chief, Scientific Review Office, National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814–9692, 301–496–9666, *nekolam@mail.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Stress and Aging.

*Date:* May 16, 2007.

*Time:* 4 p.m. to 7 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814 (Telephone Conference Call).

*Contact Person:* Alicja L. Markowska, PhD, DSC, National Institute On Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Behesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Social Relations, Health, and Aging.

*Date:* May 17, 2007.

*Time:* 2 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Resource Centers and Coordinating Center for Minority Aging Research.

*Date:* May 18, 2007.

*Time:* 9 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Mary Nekola, PhD, Chief, Scientific Review Office, National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814–9692, 301–496–9666, *nekolam@mail.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Aging Bone.

*Date:* May 22, 2007.

*Time:* 11 a.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20814 (Telephone Conference Call).

*Contact Person:* Alicja L. Markowska, PhD, DSC, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Aging Veteran's Work and Health Status.

*Date:* May 22, 2007.

*Time:* 1 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Ave, 2C212, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Wilbur C. Hadden, PhD, Health Science Administrator, National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, *haddenw@mail.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Joint Aging and Osteoarthritis.

*Date:* May 24, 2007.

*Time:* 10 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20814 (Telephone Conference Call).

*Contact Person:* Elaine Lewis, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Ros and Aging II.

*Date:* May 25, 2007.

*Time:* 12 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Bldg. RM. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Bita Nakhai, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institute of Health, HHS)

Dated: April 12, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07–1961 Filed 4–19–07; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Neurological Disorders and Stroke Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 Advisory Neurological Disorders and Stroke Council.

*Date:* May 24–25, 2007.

*Open:* May 24, 2007, 10:30 a.m. to 5 p.m.

*Agenda:* Report by the Director, NINDS; Report by the Director, Division of Extramural Research, and other administrative and program developments.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

*Closed:* May 25, 2007, 8 a.m. to 11 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

*Contact Person:* Robert Finkelstein, PhD, Associate Director for Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Blvd., Suite 3309, MSC 9531, Bethesda, MD 20892, (301) 496–9248.

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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on

campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.ninds.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 12, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07–1963 Filed 4–19–07; 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:* Digestive Sciences Integrated Review Group, Xenobiotic and Nutrient Disposition and Action Study Section.

*Date:* June 5–6, 2007.

*Time:* 7 p.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Topics in Bacterial Pathogenesis.

*Date:* June 7–8, 2007.

*Time:* 8 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:* Rolf Menzel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.nih.gov.*

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group, Virology—A Study Section.

*Date:* June 7–8, 2007.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Brookshire Suites, 120 E. Lombard Street, Baltimore, MD 21202.

*Contact Person:* Joanna M. Pyper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301–435–1151, *pyperj@csr.nih.gov.*

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group, Clinical Research and Field Studies of Infectious Diseases Study Section.

*Date:* June 7, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

*Contact Person:* Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurotransporters, Receptors, and Calcium Signaling Study Section.

*Date:* June 7–8, 2007.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Grand Hyatt San Francisco, 345 Stockton Street, San Francisco, CA 94108.

*Contact Person:* Peter B. Guthrie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurodifferentiation, Plasticity, and Regeneration Study Section.

*Date:* June 11–12, 2007.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

*Contact Person:* Joanne T. Fujii, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

*Name of Committee:* Oncological Sciences Integrated Review Group, Basic Mechanisms of Cancer Therapeutics Study Section.

*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:* Suzanne L. Forry-Schaudies, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, (301) 451–0131, *forryscs@csr.nih.gov.*

*Name of Committee:* Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics A Study Section.

*Date:* June 11–12, 2007.

*Time:* 8 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

*Contact Person:* Michael M. Sveda, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1114, MSC 7890, Bethesda, MD 20892, (301) 435–3565, *svedam@csr.nih.gov.*

*Name of Committee:* Biology of Development and Aging Integrated Review Group, Aging Systems and Geriatrics Study Section.

*Date:* June 11, 2007.

*Time:* 8 a.m. to 7:30 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:* Francois Boller, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5040Q, MSC 7843, Bethesda, MD 20892, 301–594–6421, *bollerf@csr.nih.gov.*

*Name of Committee:* Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Enabling Bioanalytical and Biophysical Technologies Study Section.

*Date:* June 11–12, 2007.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The River Inn, 924 25th Street, NW., Washington, DC 20037.

*Contact Person:* Vonda K. Smith, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7806, Bethesda, MD 20892, 301–435–1789, *smithvo@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Surgery, Anesthesia and Trauma Member Conflict.

*Date:* June 11, 2007.

*Time:* 1 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Roberto J. Matus, MD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, 301–435–2204, *matusr@csr.nih.gov.*

*Name of Committee:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Pregnancy and Neonatology Study Section.

*Date:* June 12–13, 2007.

*Time:* 8 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The DoubleTree Hotel, Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group, Bacterial Pathogenesis Study Section.

*Date:* June 12–13, 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:* Richard G. Kostriken, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, (301) 402–4454, *kostrikr@csr.nih.gov.*

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Auditory System Study Section.

*Date:* June 13–14, 2007.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Brookshire Suites, 120 East Lombard Street, Baltimore, MD 21202.

*Contact Person:* Edwin C. Clayton, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5095C, MSC 7844, Bethesda, MD 20892, (301) 402–1304, *claytone@csr.nih.gov.*

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group, Prokaryotic Cell and Molecular Biology Study Section.

*Date:* June 13–14, 2007.

*Time:* 8:30 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Double Tree Hotel, Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Diane L. Stassi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, (301) 435–2514, *stassid@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, 93.893, National Institutes of Health, HHS)

Dated: April 12, 2007.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 07–1962 Filed 4–19–07; 8:45 am]

**BILLING CODE 4140–07–M**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Federal Emergency Management Agency, DHS.

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

**SUMMARY:** The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed continuing information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning information required by FEMA to amend or revise National Flood Insurance Program Maps to remove certain property from the 1-percent annual chance floodplain.

**SUPPLEMENTARY INFORMATION:** With the passage of the Flood Disaster Protection Act of 1973, an owner of a structure, with a federally backed mortgage, located in the 1-percent annual chance floodplain, was required to purchase federal flood insurance. This was in response to the escalating damage caused by flooding and the unavailability of flood insurance from commercial insurance companies. As part of this effort, FEMA mapped the 1-percent annual chance floodplain in communities. However, due to scale limitations, individual structures that may be above the base flood cannot always be shown as being out of the 1-percent annual chance floodplain. FEMA will issue a Letter of Map Amendment (LOMA) to waive the Federal requirement for flood insurance when data is submitted to show that the property or structure is at or above the elevation of the base flood.

**Collection of Information**

*Title:* Application Form for Single Residential Lot or Structure Amendments to National Flood Insurance Program Maps.

*Type of Information Collection:* Revision of a currently approved collection.

*OMB Number:* 1660–0037.

*Form Numbers:* FEMA Forms 81–92 and 81–92A.

*Abstract:* FEMA Form 81–92 is designed to assist requesters in gathering information that FEMA needs to determine whether a certain single-lot property or structure is likely to be flooded during a flood event that has a one-percent annual chance of being equaled or exceeded in any given year (base flood). FEMA Form 81–92A is a Spanish version of FEMA Form 81–92 and, as such, only one of the two forms would be required for any one application.

*Affected Public:* Individuals or household (homeowners) and business or other for profit.

*Estimated: Total Annual Burden Hours:* 31,680.

| Data collection activity/instrument | Number of respondents (A) | Frequency of responses (B) | Hour burden per response (C) | Annual responses (D)=(A×B) | Total annual hour burden (E)=(C×D) |
|---|---|---|---|---|---|
| Form 81–92: | | | | | |
| Homeowners | 11,550 | 1 | 1.2 | 11,550 | 13,860 |
| Engineers, Surveyors | 11,550 | 1 | 1.2 | 11,550 | 13,860 |
| Form 81–92A(Spanish Version): | | | | | |
| Homeowners | 1,650 | 1 | 1.2 | 1,650 | 1,980 |
| Engineers, Surveyors | 1,650 | 1 | 1.2 | 1,650 | 1,980 |
| Total | 26,400 | | | 26,400 | 31,680 |

*Estimated Cost:* Cost to respondents is estimated to be $619,835 annually.

*Comments:* Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments must be submitted on or before June 19, 2007.

*Addresses:* Interested persons should submit written comments to Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 609, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Cecelia Lynch, FEMA, Federal Insurance and Mitigation Administration at (202) 646–7045 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: April 10, 2007.

**John A. Sharetts-Sullivan,**

*Chief, Records Management and Privacy Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E7–7581 Filed 4–19–07; 8:45 am]

**BILLING CODE 9110–11–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Federal Emergency Management Agency, DHS.

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

**SUMMARY:** The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

*Title:* EMI Independent Study Course Enrollment and Test Answer Sheet.

*OMB Number:* 1660–0046.

*Abstract:* The IS program office collect data from FEMA Form 95–23 to create and update student records and provide students with credit for training completion. The system also allows FEMA to track completions and failures of course exams. The data on the electronic form will be encrypted and sent to the server to be parsed into the Independent study database. The paper version of the form will be scanned and parsed into the database or key entered into the database.

*Affected Public:* Individuals or Households, Federal Government, and State, Local or Tribal Government.

*Number of Respondents:* 883,117.

*Estimated Time per Respondent:* 45 minutes.

*Estimated Total Annual Burden Hours:* 1,854,546.

*Frequency of Response:* 4

*Comments:* Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, Attention: Nathan Lesser, Desk Officer, Department of Homeland Security/FEMA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before May 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be made to Chief, Records Management, FEMA, 500 C Street, SW., Room 609, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Dated: April 13, 2007.

**John A. Sharetts-Sullivan,**

*Chief, Records Management and Privacy Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E7–7582 Filed 4–19–07; 8:45 am]

**BILLING CODE 9110–11–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Federal Emergency Management Agency, DHS.

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

**SUMMARY:** The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revised information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the information collection outlined in 44 CFR part 61, as it pertains to application for National Flood Insurance Program insurance.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP) is authorized by Public Law 90–448 (1968) and expanded by Public Law 93–234 (1973). The National Flood Insurance Act of 1968 requires that FEMA provides flood insurance at full actuarial rates reflecting the complete flood risk to structures built or substantially improved on or after the effective date for the initial Flood Insurance Rate Map (FIRM) for the community, or after December 31, 1974, whichever is later, so that the risks associated with buildings in flood-prone areas are borne by those located in such areas and not by the taxpayers at large. In accordance with Public Law 93–234, the purchase of flood insurance is mandatory when Federal or federally related financial assistance is being provided for acquisition or construction of buildings located, or to be located, within FEMA-identified special flood hazard areas of communities that are participating in the NFIP. When flood damage occurs to insured property, information is collected to report, investigate, negotiate and settle the claim.

**Collection of Information**

*Title:* National Flood Insurance Program Claims Forms.

*Type of Information Collection:* Revision of a currently approved collection.

*OMB Number:* 1660–0005.

*Form Numbers:* 81–40 (Worksheet-Contents-Personal Property), 81–41

(Worksheet-Building), 81–41A (Worksheet-Building Continued), 81–42 (Proof of Loss), 81–42A (Increased Cost of Compliance Proof of Loss), 81–43 (Notice of Loss), 81–44 (Statement as to Full Cost to Repair or Replacement Cost Coverage, Subject to the Terms and Conditions of this Policy), 81–57 (National Flood Insurance Program Preliminary Report), 81–58 (National Flood Insurance Program Final Report), 81–59 (National Flood Insurance Program Narrative Report), 81–63 (Cause of Loss and Subrogation Report), 81–96 (Mobile Home Worksheet), 81–96A (Mobile Home Worksheet Continued), 81–98 (Increased Cost of Compliance (ICC) Adjuster Report), 81–109 (Adjuster Preliminary Damage Assessment), 81–110 (Adjuster Certification Application).

*Abstract:* The claims forms used for the NFIP are used by policyholders and adjusters to collect the information needed to investigate, document, evaluate, and settle claims against NFIP policies for flood damage to their insured property or qualification for benefits under Increased Cost of Compliance coverage.

*Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal government; State, local or tribal government.

*Estimated Total Annual Burden Hours:* 29,448.

ANNUAL BURDEN HOURS

| Project/activity (survey, form(s), focus group, worksheet, etc.) | Number of respondents* (A) | Frequency of responses (B) | Burden hours per respondent (C) | Annual responses (A×B) | Total annual burden hours (A×B×C) |
|---|---|---|---|---|---|
| FEMA Form: | | | | | |
| 81–40 | 3,150 | 1 | 2.50 | 3,150 | 7,875 |
| 81–41 | 4,950 | 1 | 2.50 | 4,950 | 12,375 |
| 81–41A | 5,250 | 1 | 1.00 | 5,250 | 5,250 |
| 81–42 | 5,250 | 1 | 0.08 | 5,250 | 420 |
| 81–42A | 375 | 1 | 2.00 | 375 | 750 |
| 81–43 | 5,250 | 1 | 0.07 | 5,250 | 368 |
| 81–44 | 1,500 | 1 | 0.10 | 1,500 | 150 |
| 81–57 | 5,250 | 1 | 0.07 | 5,250 | 368 |
| 81–58 | 5,250 | 1 | 0.07 | 5,250 | 368 |
| 81–59 | 3,000 | 1 | 0.08 | 3,000 | 240 |
| 81–63 | 525 | 1 | 1.00 | 525 | 525 |
| 81–96 | 300 | 1 | 0.50 | 300 | 150 |
| 81–96A | 300 | 1 | 0.25 | 300 | 75 |
| 81–98 | 375 | 1 | 0.42 | 375 | 158 |
| 81–109 | 750 | 1 | 0.25 | 750 | 188 |
| 81–110 | 750 | 1 | 0.25 | 750 | 188 |
| Total | 42,225 | ..... | ..... | 42,225 | 29,448 |

*There is an estimated 7,500 respondents, however not all will file all forms. The estimated number of policyholders who will file insurance claims due to flood damage is based upon claims' historical trends. The public reporting burden for the collection of information is estimated to average four hours per claim. This estimate includes the time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information.

*Estimated Costs:* $654,040.

*Comments:* Written comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments must be submitted on or before June 19, 2007.

**ADDRESSES:** Interested persons should submit written comments to Chief, Records Management and Privacy Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 609, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Karen Christian, Insurance Examiner, Mitigation Division, Risk Insurance Branch at (202) 646–2693, *Karen.Christian@dhs.gov,* or Carolyn McGill, Insurance Examiner, Mitigation Division, Risk Insurance Branch at (202) 646–3969, *Carolyn.McGill@dhs.gov,* for additional information. You may contact the Records Management and Privacy Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

Dated: April 10, 2007.

**John A. Sharetts-Sullivan,**

*Chief, Records Management and Privacy Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency.*

[FR Doc. E7–7585 Filed 4–19–07; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–3275–EM]**

### Iowa; Amendment No. 1 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the State of Iowa (FEMA–3275–EM), dated March 30, 2007, and related determinations.

**EFFECTIVE DATE:** April 12, 2007.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of an emergency declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 30, 2007:

Cherokee, Ida, Osceola, and Webster Counties for emergency protective measures (Category B), including snow removal, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**R. David Paulison,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. E7–7563 Filed 4–19–07; 8:45 am]

**BILLING CODE 9110–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–1678–DR]**

### Oklahoma; Amendment No. 4 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–1678–DR), dated February 1, 2007, and related determinations.

**EFFECTIVE DATE:** April 12, 2007.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 1, 2007:

Caddo, Garfield, Pushmataha, and Stephens Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**R. David Paulison,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. E7–7583 Filed 4–19–07; 8:45 am]

**BILLING CODE 9110–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

### Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

**ACTION:** 60-Day Notice of Information Collection Under Review; Form N–400, Application for Naturalization; OMB Control No. 1615–0052.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 19, 2007.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Officer, 111 Massachusetts Avenue, 3rd floor, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control No. 1615–0052 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–400; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information on this form to determine an applicant's eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 700,000 responses at 6 hours and 8 minutes (6.13 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,291,000 annual burden hours.

If you have comments, suggestions, or need a copy of the proposed information

collection instrument, please contact USCIS, Chief, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone 202–272–8377.

Dated: April 17, 2007.

**Richard A. Sloan,**

*Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. E7–7584 Filed 4–19–07; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

### Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

**ACTION:** 60-Day Notice of Information Collection Under Review; Form N–600, Application for Certificate of Citizenship; OMB Control No. 1615–0057.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 19, 2007.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Officer, 111 Massachusetts Avenue, 3rd floor, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control No. 1615–0057 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–600; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information on the form to make a determination that the citizenship eligibility requirements and conditions are met by the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 88,500 responses at 1 hour and 35 minutes (1.583 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 140,095 annual burden hours.

If you have comments, suggestions, or need a copy of the proposed information collection instrument, please contact USCIS, Chief, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone 202–272–8377.

Dated: April 17, 2007.

**Richard A. Sloan,**

*Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. E7–7587 Filed 4–19–07; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

### Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

**ACTION:** 30-Day Notice of Information Collection under Review: Form I–865, Sponsor's Notice of Change of Address; OMB Control No. 1615–0076.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on February 5, 2007, at 72 FR 5300 allowing for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 21, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0076 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of this Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Sponsor's Notice of Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–865. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form will be used by every sponsor who has filed an Affidavit of Support under Section 213A of the Immigration and Nationality Act to notify the USCIS of a change of address. The data will be used to locate a sponsor if there is a request for reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at .25 hours (15 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529; Telephone 202–272–8377.

Dated: April 17, 2007.

**Stephen Tarragon,**

*Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. E7–7588 Filed 4–19–07; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

### Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

**ACTION:** 60-Day Notice of Information Collection Under Review; Form I–864, Affidavit of Support Under Section 213A of the Act; Form I–864A, Contract Between Sponsor and Household Member; Form I–864EZ, EZ Affidavit of Support under Section 213 of the Act; Form I–864W, Intending Immigrant's Affidavit of Support Exemption; OMB Control No. 1615–0075.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 19, 2007.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Officer, 111 Massachusetts Avenue, 3rd floor, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control No. 1615–0075 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Affidavit of Support Under Section 213A of the Act; Contract Between Sponsor and Household Member; EZ Affidavit of Support under Section 213 of the Act; Intending Immigrant's Affidavit of Support Exemption.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–864, Form I–864A, Form I–864EZ, and Form I–864W; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. These forms are used by family-based and certain employment-based immigrants to have the petitioning relative execute an Affidavit of Support on their behalf.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* I–864, 439,500 responses at 6 hours per response; I–864A, 215,800 responses at 1.75 hours per response; I–864EZ, 100,000 responses at 2.5 hours per response; I–864W, 1,000 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,637,000 annual burden hours.

If you have comments, suggestions, or need a copy of the proposed information collection instrument, please contact USCIS, Chief, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone 202–272–8377.

Dated: April 16, 2007.

**Richard A. Sloan,**

*Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. E7–7589 Filed 4–19–07; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Agency Information Collection Activities: African Growth and Opportunity Act (AGOA) Textile Certificate of Origin

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

**ACTION:** Proposed collection; comments requested.

**SUMMARY:** The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: African Growth and Opportunity Act Certificate of Origin. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (72 FR 7770) on February 20, 2007, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before May 21, 2007.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ Customs and Border Protection, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**SUPPLEMENTARY INFORMATION:** The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

*Title:* African Growth and Opportunity Act Certificate of Origin.

*OMB Number:* 1651–0082.

*Form Number:* None.

*Abstract:* The collection of information is required to implement the duty preference provisions of the African Growth and Opportunity Act (AGOA) to provide extension of duty-free treatment under the Generalized System of Preferences (GSP) to sensitive articles normally excluded from GSP duty treatment. It also provides for the entry of specific textile and apparel articles free of duty and free of any quantitative limits to the countries of sub-Saharan Africa.

*Current Actions:* This submission is being submitted to extend the expiration date with no change to the burden hours.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses, Institutions.

*Estimated Number of Respondents:* 440.

*Estimated Time Per Respondent:* 23.6 hours.

*Estimated Total Annual Burden Hours:* 10,400.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: April 16, 2007.

**Tracey Denning,**

*Agency Clearance Officer, Information Services Branch.*

[FR Doc. E7–7578 Filed 4–19–07; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Agency Information Collection Activities: United States-Caribbean Basin Trade Partnership Act

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

**ACTION:** Proposed collection; comments requested.

**SUMMARY:** The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: United States-Caribbean Basin Trade Partnership Act. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (72 FR 7770) on February 20, 2007, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before May 21, 2007.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ Customs and Border Protection, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**SUPPLEMENTARY INFORMATION:** The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the

functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Title:* United States-Caribbean Basin Trade Partnership Act.

*OMB Number:* 1651–0083.

*Form Number:* CBP–450.

*Abstract:* The collection of information is required to implement the duty preference provisions of the United States-Caribbean Basin Trade Partnership Act.

*Current Actions:* This submission is being submitted to extend the expiration date without a change in the burden hours.

*Type of Review:* Extension (with change).

*Affected Public:* Business or other for-profit institutions.

*Estimated Number of Respondents:* 84.

*Estimated Time Per Respondent:* 26.78 hours.

*Estimated Total Annual Burden Hours:* 2,250.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: April 16, 2007.

**Tracey Denning,**

*Agency Clearance Officer, Information Services Branch.*

[FR Doc. E7–7580 Filed 4–19–07; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5117–N–33]**

## Notice of Submission of Proposed Information Collection to OMB; HUD-Owned Real Estate-Sales Contract and Addendums

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The respondents are real estate listing brokers for HUD-owned properties who submit sales contract and addenda in conjunction with offers to purchase HUD-owned property. The sales contracts and addenda will be used in binging contracts between the purchasers and HUD; and to meet the requirements of the Lead Disclosure Rule relative to the disclosure of known lead-based paint and lead-based paint hazards in HUD sales of pre-1978 construction.

**DATES:** *Comments Due Date:* May 21, 2007.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0306) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

**FOR FURTHER INFORMATION CONTACT:** Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

*Title of Proposal:* HUD-Owned Real Estate-Sales Contract and Addendums.

*OMB Approval Number:* 2502–0306.

*Form Numbers:* HUD–9544, HUD–9548, HUD–9548–B, HUD–9548–C, HUD–9548–G, HUD–9548–H, HUD–9548–Y, and HUD–9545–Z.

*Description of the Need for the Information and Its Proposed Use:* The respondents are real estate listing brokers for HUD-owned properties who submit sales contract and addenda in conjunction with offers to purchase HUD-owned property. The sales contracts and addenda will be used in bringing contracts between the purchasers and HUD; and to meet the requirements of the Lead Disclosure Rule relative to the disclosure of known lead-based paint and lead-based paint hazards in HUD sales of pre-1978 construction.

*Frequency of Submission:* On occasion.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| Reporting Burden: | 13,137 | 12 | | 0.408 | | 67,550 |

*Total Estimated Burden Hours:* 67,550.

*Status:* Revision of a currently approved collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 16, 2007.

**Lillian L. Deitzer,**

*Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.*

[FR Doc. E7–7480 Filed 4–20–07; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5125–N–16]**

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** April 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 12, 2007.

**Mark R. Johnston,**

*Deputy Assistant Secretary for Special Needs.*

[FR Doc. E7–7284 Filed 4–19–07; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Rate Adjustments for Indian Irrigation Projects

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Rate Adjustments.

**SUMMARY:** The Bureau of Indian Affairs (BIA) owns, or has an interest in, irrigation facilities located on various Indian reservations throughout the United States. We are authorized to establish rates to recover the costs to administer, operate, maintain, and rehabilitate those facilities. We are notifying you that we have adjusted the irrigation assessment rates at several of our irrigation facilities for operation and maintenance.

**DATES:** *Effective Date:* The irrigation assessment rates shown in the tables are effective on January 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** For details about a particular BIA irrigation project, please use the tables in **SUPPLEMENTARY INFORMATION** section to contact the regional or local office where the project is located.

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rate Adjustment was published in the **Federal Register** on November 24, 2006 (71 FR 67897), to adjust the irrigation rates at several BIA irrigation facilities. The public and interested parties were provided an opportunity to submit written comments during the 60-day period prior to January 23, 2007.

**Did the BIA defer any proposed rate increases?**

For the Uintah Indian Irrigation Project, the BIA, in consultation with the tribes and Irrigation Project water users, has deferred the rate increase for 2007.

For the Flathead Indian Irrigation Project, the BIA, in consultation with the tribes and Irrigation Project water users, has deferred the rate increase for 2008.

**Did the BIA receive any comments on the proposed irrigation assessment rate adjustments?**

Written comments were received for the proposed rate adjustments for the Blackfeet Irrigation Project, Montana, Fort Peck Irrigation Project, Montana, Fort Belknap Irrigation Project, Montana, the Flathead Irrigation Project, Montana, the San Carlos Irrigation Project—Joint Works (SCIP–JW), Arizona, Walker River Irrigation Project, Nevada, and the Wind River Irrigation Project, Wyoming.

**What issues were of concern by the commenters?**

The commenters were concerned with one or more of the following issues: (1) How funds collected from stakeholders are expended on operation and maintenance (O&M); (2) the impact of an assessment rate increase on the local agricultural economy and on individual land owners and irrigators; (3) BIA O&M subsidies for trust land; (4) drainage of water from farm lands and on farm improvements; (5) non-delivery of water to water users with outstanding O&M charges. The following comments are specific to the Walker River Irrigation Project, Nevada: (1) Safety of dams project which will shorten water delivery time; (2) breach of trust issues; and (3) whether the rate increase violates federal law. The following comments are specific to the San Carlos Irrigation Project—Joint Works: (1) The amount of project reserve funds, income, and expenditures; and (2) the timeliness of the rate adjustment notice.

**How does BIA respond to the concern of how funds are expended for O&M?**

BIA includes the following expenses in irrigation project budgets: Project personnel costs; materials and supplies; vehicle and equipment repairs; equipment; capitalization expenses; acquisition expenses; rehabilitation costs; maintenance of a reserve fund for contingencies or emergencies; and other expenses we determine necessary to properly operate and maintain the irrigation projects.

One common misconception water users have is that all salary costs are administrative. Only a portion of each project budget is for administrative costs. The administrative costs include the office costs, office staff (accounting and clerical), and a portion of the project manager's salary. The O&M workers are considered O&M costs for operating and maintaining the project.

The Government Accountability Office (GAO) completed an audit report (GAO–06–314) in February 2006. In that report, the GAO recommended that the BIA require project managers to meet at least twice annually with water users. On July 21, 2006, the Director, BIA, directed each BIA revenue-generating irrigation project to meet, at a minimum, twice annually with its water users—once at the end of the irrigation season and once before the next season. For projects that operate year round, those projects will determine their best schedule for holding these meetings. At these meetings, the irrigation staff will

provide to the waters users information on project operations, including budget plans and actual annual expenditures, and will obtain feedback and input from the water users.

The BIA's budget estimates and records of expenditures for all of its irrigation facilities are public records and available for review by stakeholders or interested parties. Stakeholders (project water users/land owners/tribes) can review these records during normal business hours at the individual agency offices.

Alternatively, BIA may treat requests to review project records as requests under the Freedom of Information Act (FOIA) and provide copies of such records to the requesting party in accordance with FOIA. To review or to obtain copies of these records, stakeholders, and interested parties are directed to contact the BIA representative at the specific facility serving them, using the tables in the **SUPPLEMENTARY INFORMATION** section.

**How does BIA respond to concerns about irrigation O&M assessment rate increase and related impact on the local agricultural economy and on individual land owners and irrigators?**

All of the BIA's irrigation projects are important economic contributors to the local communities they serve, contributing millions in crop value annually. Historically, BIA tempered irrigation rate increases based in part on the economic impact on water users. This tempering of rate increases has resulted in a rate deficiency at most of the irrigation projects.

Over the past several years, the BIA's irrigation program has been the subject of several Office of Inspector General (OIG) and GAO audits. In the most recent OIG audit, No. 96–I–641, March 1996, the OIG concluded, ''Operation and maintenance revenues were insufficient to maintain the projects, and some projects had deteriorated to the extent that their continued capability to deliver water was in doubt. This occurred because operation and maintenance rates were not based on the full cost of delivering water, including the costs of systematically rehabilitating and replacing project facilities and equipment, and because project personnel did not seek regular rate increases to cover the full cost of operation.'' A previous OIG audit, No. 88–42, February 1988, reached the same conclusion. A separate audit, No. 95–I–1402, September 1995, performed on one of BIA's largest irrigation projects, Wapato Indian Irrigation Project, reinforced the general findings of the OIG on the BIA's irrigation program. This audit pointed out a lack of response by the BIA to the original findings of the OIG in addressing this critical issue over an extended period of time.

The BIA must systematically review and evaluate irrigation assessment rates and adjust them, when necessary, to reflect the full costs to properly operate, and perform all appropriate maintenance on the irrigation facility infrastructure for safe and reliable operation. If this review and evaluation are not accomplished, a rate deficiency can eventually accumulate. Overcoming rate deficiencies can result in the BIA having to raise irrigation assessment rates in larger increments and over shorter time frames than would have been otherwise necessary.

**How does the BIA respond to removing O&M subsidies for trust land?**

In the past, BIA has provided limited appropriated funds to irrigation projects to assist the projects in their operations and maintenance and, at a few projects, subsidized the O&M costs for trust lands. Unfortunately, the BIA does not have sufficient discretionary funding to continue this practice in the future. Without the necessary rate increases, the impact to projects as a result of the lack of adequate O&M funds could result in the inability to deliver water and maintain irrigation system components adequately.

**How does BIA respond to concerns about drainage of water off farm lands and on-farm improvements?**

The BIA is responsible for the O&M of the irrigation delivery system and is not responsible for on-farm activities. In 25 Code of Federal Regulations (CFR), Section 171.8, Surface Drainage, it states that the water users are responsible for surface drainage resulting from their irrigation practices.

**How does BIA respond to concerns about non-delivery of water to water users with outstanding O&M charges?**

The BIA's irrigation O&M regulations, 25 CFR 171.17, require payment of annual O&M assessments before irrigation water may be delivered. This requirement includes delinquent payments and balances that have been referred to the Department of the Treasury pursuant to the Debt Collection Improvement Act of 1996 and Federal debt collection standards at 31 CFR Part 901.

**The Following comments Are Specific to Walker River Irrigation Project, Nevada**

The Walker River Paiute Tribe (Tribe) objects to the proposed O&M rate increase from $7.32 to $10.00 per acre because: (1) Weber Dam and Reservoir are subject to interim operating criteria for safety of dams reasons, which require the operation of the Reservoir at lower elevations than are normal, and the water users thereby receive a reduced amount of stored water; (2) BIA failed to justify the increased O&M rate; (3) it is a breach of trust duty for the BIA to increase the O&M rate; and (4) the rate increase violates Federal law.

**How does the BIA respond to objections that raising the O&M rates when the safety of dams project may shorten water delivery time and that the BIA failed to justify the rate increase?**

Weber Dam Operations—In CY 2007, water supply shortages are more likely to be caused by the below average snowfall and precipitation in the basin (less than 40 percent of normal this year according to the National Resources Conservation Service) than by the interim operating criteria at Weber Dam. The Tribe and the BIA have worked closely in CY 2007 to manage the safety of dams repair activities in a way to minimize inconvenience to the water users in the Project. The BIA's O&M costs to operate the Project in 2007 remain the same regardless of the available water supply in the system.

BIA's O&M Budget Justification—BIA provided a detailed O&M budget justification to the Project water users on May 23, 2006, and the O&M budget justification was discussed with the Project water users again on September 28, 2006. The budget justification shows that the increased O&M rate proposed for 2007 still does not cover all of BIA's costs for O&M of the Project and does not include funds to maintain a reserve fund or to pay for deferred maintenance costs.

**How does the BIA respond to comments regarding breaching its trust duty?**

The BIA disagrees that increasing O&M rates for Indian irrigation projects violates any trust duty to Indian tribes. The BIA, pursuant to 25 U.S.C. 381 *et seq.* and 25 CFR part 171, has responsibilities to administer constructed Indian irrigation projects, set rates, collect assessments, and make decisions regarding water delivery on BIA irrigation projects. The BIA must collect O&M assessments in order to operate and maintain the irrigation infrastructure. Over time, costs of

operating and maintaining the projects increase, and rates must be adjusted accordingly to enable the BIA to continue to provide irrigation services. This is particularly true because O&M rates are the only regular source of funding for the BIA's irrigation projects. Contrary to the assertion of the commenter, there is no fiduciary obligation for the Department's O&M of irrigation projects. *See*, *e.g.*, *Grey* v. *United States*, 21 Cl. Ct. 285 (1990), *aff'd*, 935 F.2d 281 (Fed. Cir. 1991), *cert. denied*, 502 U.S. 1057 (1992).

**How does the BIA respond to the rate increase that violates federal law?**

The Tribe stated that ''* * * 25 U.S.C. Section 385 states that costs incurred by the BIA may be reimbursed by farmers only if the farmers have adequate funds to repay the Government.'' This statement misconstrues 25 U.S.C. 385. The Secretary's authorization to set O&M charges is not subject to a determination of an individual's ability to pay. The provision quoted from 25 U.S.C. 385 refers only to repayment of construction costs. 25 U.S.C. 385 codifies several separate provisions taken from the Act of August 14, 1914, Pub. L. 63–160, 38 Stat. 582, 583. In addition to authorizing the Secretary to set and assess O&M rates on irrigation projects, the 1914 Act also appropriated a lump sum of money to use for construction of irrigation projects. The second provision of 25 U.S.C. 385, regarding reimbursement of construction costs where Indians have the ability to pay, only applies to the construction money appropriated in the 1914 Act and does not relate to the Secretary's O&M rate-setting authority.

The following comment is specific to San Carlos Irrigation Project—Joint Works (SCIP–JW).

**How does BIA respond to concerns regarding how funds collected from stakeholders are expended on O&M; the amount of project reserve funds, income and expenditures; and the timeliness of the rate adjustment notice?**

By letter dated January 22, 2007, an Attorney for the San Carlos Irrigation and Drainage District (District) submitted comments on the proposed 2008 budget and O&M rate for the San Carlos Irrigation Project (Project). On August 8, 2006, the District filed a Complaint in the United States Court of Federal Claims (Case No. 06–576C). The Complaint raises most of the same factual and legal issues the District raised in its comments about the Project's proposed O&M rate and budget for 2008. Because Federal court litigation is pending concerning most of the issues raised in the District's comments on the proposed 2008 O&M rate and budget, specific responses to these issues will not be discussed here.

As noted in the District's comments, on or before December 31, 2007, the Project and the District will learn whether the provisions of the Arizona Water Settlement Act (Settlement Act) are deemed effective, which will then trigger the timelines for establishment of the Joint Works Board under the Settlement Act. This process will require the Project and the affected water users to clarify and evaluate future O&M rates, activities and costs, and responsibilities as required by the Settlement Act and implementing agreements.

**Did the BIA receive comments on any proposed changes other than rate adjustments?**

No.

**Does this notice affect me?**

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you have a carriage agreement with one of our irrigation projects.

**Where can I get information on the regulatory and legal citations in this notice?**

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov.*

**What authorizes BIA to issue this notice?**

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

**Who can I contact for further information?**

The following tables are the regional and project/agency contacts for our irrigation facilities.

| Project name | Project/agency contacts |
|---|---|
| **Northwest Region Contacts** | |
| Stanley Speaks, Regional Director, Bureau of Indian Affairs, Northwest Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, Telephone: (503) 231–6702 | |
| Flathead Irrigation Project | Ernest T. Moran, Superintendent, Flathead Agency Irrigation Division, P.O. Box 40, Pablo, MT 59855–0040, Telephone: (406) 675–2700. |
| Fort Hall Irrigation Project | Eric J. LaPointe, Superintendent, Alan Oliver, Supervisory General Engineer, Fort Hall Agency, P.O. Box 220, Fort Hall, ID 83203–0220, Telephone: (208) 238–2301. |
| Wapato Irrigation Project | Pierce Harrison, Project Administrator, Wapato Irrigation Project, P.O. Box 220, Wapato, WA 98951–0220, Telephone: (509) 877–3155. |
| **Rocky Mountain Region Contacts** | |
| Ed Parisian, Acting Regional Director, Bureau of Indian Affairs, Rocky Mountain Regional Office, 316 North 26th Street, Billings, Montana 59101, Telephone: (406) 247–7943 | |
| Blackfeet Irrigation Project | Stephen Pollock, Superintendent, Ted Hall, Irrigation Project Manager, Box 880, Browning, MT 59417, Telephones: (406) 338–7544, Superintendent, (406) 338–7519, Irrigation Project Manager. |
| Crow Irrigation Project | Ed Lone Fight, Superintendent, Karl Helvik, Irrigation Project Manager, P.O. Box 69, Crow Agency, MT 59022, Telephones: (406) 638–2672, Superintendent, (406) 638–2863, Irrigation Project Manager. |
| Fort Belknap Irrigation Project | Judy Gray, Superintendent, Ralph Leo, Irrigation Project Manager, R.R.1, Box 980, Harlem, MT 59526, Telephones: (406) 353–2901, Superintendent, (406) 353–2905, Irrigation Project Manager. |

| Project name | Project/agency contacts |
|---|---|
| Fort Peck Irrigation Project | Vacant, Superintendent, P.O. Box 637, Poplar, MT 59255, Vacant, Irrigation Manager 602 6th Avenue North, Wolf Point, MT 59201, Telephones: (406) 768–5312, Superintendent, (406) 653–1752, Irrigation Manager. |
| Wind River Irrigation Project | George Gover, Superintendent, Ray Nation, Acting Irrigation Project Manager, P.O. Box 158, Fort Washakie, WY 82514, Telephones: (307) 332–7810, Superintendent, (307) 332–2596, Irrigation Project Manager. |
| **Southwest Region Contacts** | |
| Larry Morrin, Regional Director, Bureau of Indian Affairs, Southwest Regional Office, 1001 Indian School Road, Albuquerque, New Mexico 87104, Telephone: (505) 563–3100 | |
| Pine River Irrigation Project | Ross P. Denny, Superintendent, John Formea, Irrigation Engineer, P.O. Box 315, Ignacio, CO, 81137–0315, Telephones: (970) 563–4511, Superintendent, (970) 563–1017, Irrigation Engineer. |
| **Western Region Contacts** | |
| Alan Anspach Regional Director, Bureau of Indian Affairs, Western Regional Office, Two Arizona Center 400 N. 5th Street, 12th floor, Phoenix, Arizona 85004, Telephone: (602) 379–6600 | |
| Colorado River Irrigation Project | Perry Baker, Superintendent, Ted Henry, Irrigation Project Manager, R.R. 1 Box 9–C, Parker, AZ 85344, Telephone: (928) 669–7111. |
| Duck Valley Irrigation Project | Robert Hunter, Acting Superintendent, 1555 Shoshone Circle, Elko, NV 89801, Telephone: (775) 738–0569. |
| Fort Yuma Irrigation Project | Sam Rideshorse, Superintendent P.O. Box 11000, Yuma, AZ 85366, Telephone: (520) 782–1202. |
| San Carlos Irrigation Project Joint Works. | Carl Christensen, Supervisory General Engineer, P.O. Box 250, Coolidge, AZ 85228, Telephone: (520) 723–6216. |
| San Carlos Irrigation Project Indian Works. | Joe Revak, Supervisory General Engineer, Pima Agency, Land Operations, Box 8, Sacaton, AZ, 85247, Telephone: (520) 562–3372. |
| Uintah Irrigation Project | Lynn Hansen, Irrigation Manager, P.O. Box 130, Fort Duchesne, UT 84026, Telephone: (435) 722–4341. |
| Walker River Irrigation Project | Robert Hunter, Superintendent, 311 E. Washington Street, Carson City, NV 89701, Telephone: (775) 887–3500. |

**What irrigation assessments or charges are proposed for adjustment by this notice?**

The rate table below contains the 2007 final rates for all of our irrigation projects where we recover our costs for operation and maintenance. The table also contains the proposed and final rates for the 2008 season and subsequent years where applicable. An asterisk immediately following the name of the project notes the irrigation projects where rates are have been adjusted.

NORTHWEST REGION RATE TABLE

| Project name | Rate category | Final 2006 rate | Final 2007 rate | Final 2008 rate |
|---|---|---|---|---|
| Flathead Irrigation Project | Basic Per acre—A | $21.45 | $23.45 | $23.45. |
| | Basic Per acre—B | 10.75 | 10.75 | 10.75. |
| | Minimum Charge per tract | 65.00 | 65.00 | 65.00. |
| Fort Hall Irrigation Project* | Basic Per acre | 24.00 | 27.00 | To be determined. |
| | Minimum Chare per tract | 25.00 | 25.00 | |
| Fort Hall Irrigation Project—Minor Units* | Basic Per acre | 15.00 | 17.00 | |
| | Minimum Charge per tract | 25.00 | 25.00 | |
| Fort Hall Irrigation Project—Michaud* | Basic Per acre | 34.00 | 35.75 | |
| | Pressure Per acre | 48.50 | 50.00 | |
| | Minimum Charge per tract | 25.00 | 25.00 | |
| Wapato Irrigation Project—Toppenish/Simcoe Units*. | Billing Charge Per Tract | 5.00 | 5.00 | |
| | Farm unit/land tracts up to one acre (minimum charge). | 13.50 | 14.00 | |
| | Farm unit/land tracts up to one acre—per acre. | 13.50 | 14.00 | |
| Wapato Irrigation Project—Ahtanum Units* | Billing Charge Per Tract | 5.00 | 5.00 | |
| | Farm unit/land tracts up to one acre (minimum charge). | 13.50 | 14.00 | |
| | Farm unit/land tracts up to one acre | 13.50 | 14.00 | |
| Wapato Irrigation Project—Satus Unit* | Billing Charge Per Tract | 5.00 | 5.00 | |
| | Farm unit/land tracts up to one acre (minimum charge). | 53.00 | 55.00 | |
| | "A" farm unit/land tracts over one acre—per acre. | 53.00 | 55.00 | |
| | Additional Works farm unit/land tracts over one acre—per acre. | 58.00 | 60.00 | |

NORTHWEST REGION RATE TABLE—Continued

| Project name | Rate category | Final 2006 rate | Final 2007 rate | Final 2008 rate |
|---|---|---|---|---|
| | "B" farm unit/land tracts over one acre—per acre. | 63.00 | 65.00 | |
| | Water Rental Agreement Lands—per acre .... | 64.50 | 67.00 | |

ROCKY MOUNTAIN REGION RATE TABLE

| Project name | Rate category | Final 2006 rate | Final 2007 rate | Final 2008 rate |
|---|---|---|---|---|
| Blackfeet Irrigation Project* ..... | Basic-per acre ..... | 13.00 | 15.50 | To be determined. |
| Crow Irrigation Project—Willow* Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units). | Basic-per acre ..... | 17.30 | 19.30 | |
| Crow Irrigation* Project—All Others (includes Bighorn, Soap Creek, and Pryor Units). | Basic-per acre ..... | 17.00 | 19.00 | |
| Crow Irrigation Two Leggins Drainage District | Basic-per acre ..... | 2.00 | 2.00 | |
| Fort Belknap* Irrigation Project ..... | Trust Land per acre ..... | 8.50 | 13.88 | 20.00. |
| | non-Trust Land per acre ..... | 17.00 | 18.50 | 20.00. |
| Fort Peck Irrigation Project* ..... | Basic-per acre ..... | 17.50 | 20.00 | To be determined. |
| Wind River Irrigation Project* ..... | Basic-per acre ..... | 14.00 | 15.00 | |
| Wind River Irrigation Project—LeClair District | Basic-per acre ..... | 17.00 | 17.00 | |

SOUTHWEST REGION RATE TABLE

| Project name | Rate category | Final 2006 rate | Final 2007 rate |
|---|---|---|---|
| Pine River Irrigation Project* ..... | Minimum Charge per tract ..... | $50.00 | $50.00 |
| | Basic-per acre ..... | 13.00 | 150.00 |

WESTERN REGION RATE TABLE

| Project name | Rate category | Final 2006 rate | Final 2007 rate | Proposed 2008 rate | Proposed 2009 rate |
|---|---|---|---|---|---|
| Colorado River Irrigation Project ..... | Basic per acre up to 5.75 acre-feet | $47.00 | $47.00 | To be determined | To be determined. |
| | Excess Water per acre-foot over 5.75 acre-feet. | 17.00 | 17.00 | | |
| Duck Valley Irrigation Project ..... | Basic-per acre ..... | 5.30 | 5.30 | | |
| Fort Yuma Irrigation Project (See Note #1)*. | Basic-per acre up to 5.0 acre-feet .. | 65.00 | 72.00 | | |
| | Excess Water per acre-foot over 5.0 acre-feet. | 10.50 | 10.50 | | |
| San Carlos Irrigation Project (Joint Works)* (See Note #2). | Basic-per acre ..... | 30.00 | 30.00 | $21.00 Final 2008 Rate. | $21.00. Final 2009 Rate. |
| San Carlos Irrigation Project (Indian Works). | Basic-per acre ..... | 77.00 | 77.00 | To be determined | To be determined. |
| Uintah Irrigation Project ..... | Basic-per acre ..... | 12.00 | 12.00 | | |
| | Minimum Bill ..... | 12.00 | 25.00 | | |
| Walker River Irrigation Project* ..... | Indian per acre ..... | 7.32 | 10.00 | 13.00 ..... | $16.00. |
| | Non-Indian per acre ..... | 15.29 | 16.00 | 16.00 ..... | $16.00. |

* Notes irrigation projects where rates are have been adjusted.

Note #1—The O&M rate for the Fort Yuma Irrigation Project has two components. The first component is the O&M rate established by the Bureau of Reclamation (BOR), the owner and operator of the Project. The BOR rate for 2007 has been established at $65 which is an increase from the $62 rate in 2006. The second component is for the O&M rate established by BIA to cover administrative costs, including billing and collections for the Project. Through this notice, the BIA is establishing a $7/acre O&M rate for its component of the rate. The BIA rate assessment would cover approximately 50 percent of the accounting technician and 40 percent of the Natural Resource Officer at the BIA Fort Yuma Agency.

Note #2—The 2008 and 2009 irrigation rates are final through this notice. The 2007 rate was established by final notice published in the FEDERAL REGISTER on April 5, 2006 (Vol. 71, No. 65, page 17131).

**Consultation and Coordination With Tribal Governments (Executive Order 13175)**

The BIA irrigation projects are vital components of the local agriculture economy of the reservations on which they are located. To fulfill its responsibilities to the tribes, tribal organizations, water user organizations, and the individual water users, the BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance,

and rehabilitation. This is accomplished at the individual irrigation projects by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of the BIA's overall coordination and consultation process to provide notice and request comments from these entities on adjusting our irrigation rates.

**Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)**

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA-owned and operated irrigation projects, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation with a portion serving the Fort Yuma Reservation.

**Regulatory Planning and Review (Executive Order 12866)**

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

This rate making is not a rule for the purposes of the Regulatory Flexibility Act because it is ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

**Unfunded Mandates Act of 1995**

These rate adjustments impose no unfunded mandates on any governmental or private entity and are in compliance with the provisions of the Unfunded Mandates Act of 1995.

**Takings (Executive Order 12630)**

The Department has determined that these rate adjustments do not have significant ''takings'' implications. The rate adjustments do not deprive the public, State, or local governments of rights or property.

**Federalism (Executive Order 13132)**

The Department has determined that these rate adjustments do not have significant Federalism effects because they pertain to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of States.

**Civil Justice Reform (Executive Order 12988)**

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

**Paperwork Reduction Act of 1995**

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0141 and expires August 31, 2009.

**National Environmental Policy Act**

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Dated: April 12, 2007.

**Carl J. Artman,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. E7–7558 Filed 4–19–07; 8:45 am]

**BILLING CODE 4310–W7–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NV–040–06–5101–ER–F344; (N–78091)]**

### Notice of Availability of the Draft Environmental Impact Statement (DEIS) for a Proposed Coal-Fired Electric Power Generating Plant in Eastern White Pine County and Notice of Public Meetings; Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, a DEIS has been prepared by the Bureau of Land Management (BLM), Ely Field Office for the White Pine Energy Station (WPES) and is now available for comment. This document evaluates the environmental effects from constructing a coal-fired electric power generating plant (up to 1,600-megawatts) and associated features on public lands in White Pine County, Nevada.

**DATES:** The DEIS is now available for comment. Copies of the DEIS will be mailed to individuals, agencies, or companies who previously requested copies. Mailed comments on the DEIS must be postmarked by June 19, 2007. Written comments on the document should be addressed to Jack Tribble, Acting Assistant Field Manager, Bureau of Land Management, Ely Field Office, HC 33 Box 33500, Ely, NV 89301–9408. Oral and/or written comments may also be presented at two public meetings. There will one public meeting in Ely and one public meeting in Reno. The date, time, and location will be made available at least 15 days before each meeting.

**ADDRESSES:** Public reading copies of the DEIS will be available for reading at public libraries listed below:

—University of Nevada-Reno, Getchell Library, Government Publication Dept., Reno, NV 89507.
—Washoe County Library, 301 South Center Street, Reno, NV 89501.
—White Pine County Library, 950 Campton Street, Ely, NV 89301.

A limited number of copies of the document will be available at the following BLM offices:

—Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, NV 89801.
—Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701.
—Bureau of Land Management, Ely Field Office, 702 North Industrial Way, Ely, NV 89301–9408.
—Nevada State Office, 1340 Financial Boulevard, Reno, NV 89502–7147.
—Washington Office of Public Affairs, 18th and C Street, NW., Washington, DC 20240.

Individual respondents may request confidentiality. If you wish to withhold your name and/or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations, 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:** Doris Metcalf at the above address, or phone: 775–289–1852.

**SUPPLEMENTARY INFORMATION:** The DEIS addresses alternatives to resolve the following major issues: Ground water, air quality, visual resources, biological resources, and socioeconomic effects.

The Proposed Action includes the following actions: Northern coal-fired power plant site right-of-way (ROW),

northern transmission line alignment and substations ROW, northern well field and water line ROW, northern railroad spur ROW, access roads ROW, and ancillary features ROW. Alternative 1 includes the following actions: Southern coal-fired power plant site ROW, southern transmission line alignment and substations ROW, southern well field and water line ROW, southern railroad spur ROW, access roads ROW, and ancillary features ROW.

The Proposed Action and Alternative 1 also include the following project actions and features: Issue ROWs for White Pine Energy Station construction and operation and subsequently arrange for the sale of the power plant site to White Pine Energy Associates; construct, operate, and maintain a 1,600-megawatt (maximum) coal-fired electric power generating plant using hybrid cooling systems that has an expected commercial life of 50 years or longer; develop a well field in the Steptoe Valley Hydrographic Basin to meet the water needs of the power plant; construct a new rail spur from the Nevada Northern Railway (NNR) to the power plant site to supply coal; develop the linear infrastructure necessary to connect the power plant to the new water source, to existing electric transmission lines serving the region, and to provide site access; and implement a seeding project to enhance the grazing and wildlife value of 700 to 900 acres. The Proposed Action and Alternative 1 differ primarily in the location of the power plant site, well field, and transmission line alignment (northern vs. southern).

The No Action Alternative represents the current situation (i.e., not approving or implementing any of the above-described actions).

Public participation is occurring throughout the processing of the application for this proposed project. A Notice of Intent was published in the **Federal Register** on August 6, 2004, 69 FR 47954–47955. One round of public meetings was held. Comments presented throughout the process have been considered and incorporated into the DEIS as appropriate.

Dated: October 13, 2006.

**Jack Tribble,**

*Acting Assistant Field Manager, Nonrenewable Resources.*

**Note:** This notice was received by the Office of the Federal Register on April 13, 2007.

[FR Doc. E7–7341 Filed 4–19–07; 8:45 am]

**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NV–050–5853–ES; N–63293, N–76478, and N–76479; 7–08807]**

### Notice of Realty Action: Recreation and Public Purposes Act Classification of Public Lands in Clark County, NV

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action.

**SUMMARY:** The Bureau of Land Management (BLM) has examined and found suitable for classification for lease and subsequent conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, approximately 37.5 acres of public land in Clark County, Nevada. The City of Las Vegas (City) proposes to use the land as a Fire Station/Metro Police Substation and two public parks.

**DATES:** Interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands until June 4, 2007.

**ADDRESSES:** Send written comments to the Las Vegas Field Manager, BLM, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130–2301.

**FOR FURTHER INFORMATION CONTACT:** Rebecca L. Rury, Realty Specialist, Las Vegas Field Office, (702) 515–5087.

**SUPPLEMENTARY INFORMATION:** The following described public lands in Las Vegas, Clark County, Nevada have been examined and found suitable for classification for lease and subsequent conveyance under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*) and is hereby classified accordingly.

The City of Las Vegas proposes to use 7.5 acres of land for a Fire Station with a Metro Police Substation (N–63293). The other 30 acres will consist of two 15-acre public parks (N–76478 and N–76479). These facilities will serve citizens in the northwest sector of the City, where rapid growth has occurred.

N–63293:

**Mount Diablo Meridian**

T. 19 S., R. 59 E.
Sec. 13, NW¼NE¼NE¼NE¼, S½NE¼NE¼NE¼.

The area described contains 7.5 acres, more or less, in Clark County.

N–76478:

**Mount Diablo Meridian**

T. 19 S., R. 59 E.
Sec. 24, W½SW¼SE¼NW¼, NW¼SE¼NW¼.

The area described contains 15 acres, more or less, in Clark County.

N–76479:

**Mount Diablo Meridian**

T. 19 S., R. 59 E.
Sec. 13, E½NW¼NW¼SE¼, NE¼NW¼SE¼.

The area described contains 15 acres, more or less, in Clark County.

The land is not required for any Federal purpose. The proposed actions are in conformance with the Las Vegas Resource Management Plan approved on October 5, 1998. The Plans of Development have been reviewed and it is determined the proposed action conforms with land use plan decision LD–1 established in accordance with Section 202 of FLPMA, as amended (43 U.S.C. 1713). The lease/conveyance, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the lands under applicable law and such regulations as the Secretary of the Interior may prescribe, including all necessary access and exit rights.

The lease/conveyances for N–63293, N–76478 and N–76479 will also be subject to:

1. Valid existing rights;

2. Right-of-Way N–78524 for roadway, sanitary sewer and drainage purposes granted to City of Las Vegas, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

3. Right-of-way N–78783 for water pipeline purposes granted to Las Vegas Valley Water District, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

4. Right-of-way N–80137 for underground fiber optic cable purposes granted to Cox Communications, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

5. Right-of-way N–80169 for fiber optic cable purposes granted to Central Telephone Company, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

6. Right-of-way N–80658 for gas pipeline purposes granted to Southwest Gas Corporation, its successors or assigns, pursuant to the Act of February 25, 1920 (30 U.S.C. 185 Section 28);

7. Right-of-way N–81399 for power line purposes granted to Nevada Power

Company, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

*Classification Comments:* Interested parties may submit comments involving the suitability of the land for a Fire Station with a Metro Police Substation and two public parks. Comments on the classification are restricted to whether the lands are physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs. The classification of the land described in this Notice will become effective 60 days from the date of publication of this notice in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

*Application Comments:* Interested parties may submit comments regarding the specific use proposed in the applications and Plans of Development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Fire Station with a Metro Police Substation and two public parks. Any adverse comments will be reviewed by the BLM Nevada State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Detailed information concerning this action is available for review at the BLM Las Vegas Field Office at the address above. The Field Manager, BLM Las Vegas Field Office, will review the comments of all interested parties concerning the lease/conveyance. To be considered, comments must be received at the BLM Las Vegas Field Office on or before the date stated above in this notice for that purpose. 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. Only written comments submitted by postal service or overnight mail to the Field Manager, BLM Las Vegas Field Office will be considered properly filed. E-mail, facsimile or telephone comments will not be considered properly filed.

In the absence of any adverse comments, the decision will become effective on June 19, 2007. The lands will not be offered for lease/conveyance until after the decision becomes effective.

**Authority:** 43 CFR 2741.5.

Dated: March 21, 2007.

**Philip Rhinehart,**

*Acting Assistant Field Manager, Non-Renewable Resources, Las Vegas, NV.*

[FR Doc. E7–7556 Filed 4–19–07; 8:45 am]

**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[UT–060–5870–EU; UTU 79436]**

## Notice of Realty Action; Non-Competitive Sale of Public Land; Grand County, UT

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action.

**SUMMARY:** The Bureau of Land Management (BLM) has examined and determined that 50 acres of public land (2 parcels) located in Grand County, Utah are suitable for disposal by direct (non-competitive) sale to the Palladium Foundation LLC, the adjacent landowner, at no less than the appraised fair market value, pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended. The parcels are isolated from other public lands by adjacent private land and topography and are difficult to manage as part of the public lands. It has been determined that resource values will not be affected by the disposal of the two parcels as mitigated in the patent. The non-competitive sale is justified by lack of physical access to the lands by anyone other than the adjacent landowner. Disposal of the parcels will resolve historic use of the lands for livestock grazing and hay production which have been authorized by BLM under land use permit UTU–64085 since 1989. The permit will be terminated at the time of sale.

**DATES:** Interested parties may submit comments to the BLM Moab Field Office Manager, at the address below. Comments must be received no later than June 4, 2007. Only written comments will be accepted.

**ADDRESSES:** Address all written comments concerning this notice to the BLM Moab Field Manager, 82 East Dogwood Avenue, Moab, Utah 84532.

**FOR FURTHER INFORMATION CONTACT:** Mary von Koch, Realty Specialist, at the above address or at (435) 259–2128.

**SUPPLEMENTARY INFORMATION:** The following described lands in Grand County, Utah have been determined to be suitable for sale. The lands will be sold at no less than the fair market value established by appraisal at $50,000 by a certified appraiser.

**Salt Lake Meridian, Utah**

T. 21 S., R. 24 E.,
Sec. 27, E½NW¼SE¼, and NE¼SW¼SE¼;
Sec. 34, NE¼NE¼NE¼NE¼;
sec. 35, NE¼NW¼NW¼, N½NW¼NW¼NW¼, and SE¼NW¼NW¼NW¼.

The areas described contain 50 acres, more or less, in Grand County.

The sale meets the disposal criteria in Section 203 (a)(1) of FLPMA and 43 CFR 2710.0–3 (a)(3) because the location and topography of the parcels make them difficult and uneconomic to manage as part of the public lands and they are not suitable for management by another Federal department or agency. The sale meets the criteria for direct sale under 43 CFR 2711.3–3 (a)(3, 4, and 5) based on the fact that the public lands have been an integral part of agricultural use on the adjoining private land since the 1980s, they are isolated from other public lands by surrounding private ownership and topography, and the sale to the adjacent private owner would resolve a long-term occupancy of the public lands. The parcels were identified for disposal in the March 10, 1995, amendment to the BLM Grand Resource Area Resource Management Plan approved in July 1985, and therefore meet the disposal qualification of the Federal Land Transaction Facilitation Act of July 25, 2000 (FLTFA) (43 U.S.C. 2304). Proceeds from the sale will be deposited in the Federal Land Disposal Account for Utah pursuant to FLTFA.

The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**. This land is being offered as a direct non-competitive sale to the adjacent landowner. The parcels are not required for any Federal purpose or program. Sale of the parcels is consistent with current BLM land use planning and would be in the public interest.

The terms and conditions applicable to the sale are:

1. All valid existing rights of record, including those documented on the official public land records at the time of sale.

2. A reservation to the United States for rights-of-way for ditches or canals under the Act of August 20, 1890 (26 Stat. 391; 43 U.S.C. 945).

No warranty of any kind, express or implied, is given by the United States as to the title, physical condition or potential uses of the parcels of land proposed for sale, and the conveyance of any such parcels will not be on a contingency basis. It is the buyer's responsibility to be aware of all applicable local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

The mineral interests have been determined to have no known mineral value pursuant to 43 CFR 2720.2(a) and will be conveyed simultaneously with the sale of the land. Acceptance of a sale offer will constitute an application for conveyance of the mineral interests, and the purchaser will be required to pay a $50 non-refundable filing fee for conveyance of the mineral interests.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the general mining laws. The segregation will end upon issuance of patent or 2 years from the date of publication, whichever occurs first. This segregation supersedes segregation of the lands under exchange application UTU–80475 which will terminate on the subject lands upon publication of this Notice in the **Federal Register**.

Detailed information concerning this land sale, including the reservations, sale procedures and conditions, appraisal, planning and environmental documents, and mineral report, is available for review at the BLM Moab Field Office.

Written comments must be received by the Moab Field Manager, at the address stated above, on or before the date stated above. Facsimiles, telephone calls, and e-mails are unacceptable means of notification. Comments including names and street addresses of respondents will be available for public review at the BLM Moab Field Office during regular business hours, except holidays. 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. Any adverse comments will be reviewed by the BLM Utah State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, or adverse comments, the proposed realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711.1–2(a))

Dated: January 19, 2007.

**Margaret Wyatt,**

*Moab Field Office Manager.*

[FR Doc. E7–7531 Filed 4–19–07; 8:45 am]

**BILLING CODE 4310–DQ–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[MT–100–1220–AF]**

### Notice of Camping Limits on Public Lands in Montana, South Dakota & North Dakota

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice consolidates and clarifies current stay limits on occupancy and/or property on public lands managed by the Bureau of Land Management (BLM) in Montana, North Dakota and South Dakota. Existing limits vary among field offices and states. This notice will establish stay limits on all public lands managed by the BLM as required by 43 CFR 8365 1–2. The proposed stay limits are necessary to protect the natural resources, provide public health, and to provide orderly, equal and consistent use for the public. These proposed stay limits will supersede all existing camping stay limits for BLM administered public lands in Montana, North Dakota & South Dakota published previously.

**DATES:** You should submit your comments within 30 days from the date of publication. In developing final rules, BLM may not consider comments postmarked or received in person or by electronic mail after this date.

**ADDRESSES:** You may mail or deliver comments on the proposed Notice to Bart Fitzgerald, Special Agent in Charge, Bureau of Land Management, Montana State Office, and 5001 Southgate Drive, Billings MT 59101. You may also comment by internet e-mail at the following address: *MT_Billings_SO@blm.gov*.

**FOR FURTHER INFORMATION CONTACT:** Bart Fitzgerald, Special Agent in Charge, Montana BLM State Office, 5001 Southgate Drive, Billings Montana 59101, (406) 896–5010.

**SUPPLEMENTARY INFORMATION**

**Public Comment Procedures**

Your comments on the proposed notice should be specific, should be confined to issues pertinent to the proposed supplementary rules, and should explain the reason for any recommended change or deviation from this proposal. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. BLM may not necessarily consider or include in the Administrative Record for the final comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

The BLM will make your comments, including your name and address, available for public review at the Montana State Office address listed in **ADDRESSES** above during regular business hours (8 a.m. to 4:30 p.m., Monday through Friday, accept Federal holidays). 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.

The notice will apply to the public lands within the States of Montana, North Dakota and South Dakota. The significant change would be a limit of 14 days within a 30 day period as opposed to the existing 28 day period. This reflects recent changes made by other land management agencies and prevents 2 parties from occupying the same site indefinitely by simply moving every 14 days.

The proposed camping limits are being established in order to protect natural resources on public lands and provide fair and consistent use for all public land users. The action will prevent situations where users on public land occupy a site for long periods of time. Long tenure occupancies can result in negative impacts to the surrounding area such as: vegetation damage, erosion, and sanitation problems. Long tenure occupancies prevent other public land users from using popular sites and can promote abandonment of personal property. BLM's objective is to provide a quality recreation experience for all users with minimal conflict, to maintain

an environment that is clean and healthy, and to reduce damage on the public lands and resources. In some specific areas that receive heavy use, BLM may develop, by Supplemental Rules, stay limits that vary from this notice. Those areas will be posted on site.

*Definitions*

*Camping:* The erecting of a tent or shelter, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel for the apparent purpose of overnight occupancy.

*Occupancy:* Full or part-time residence on public lands. It also means activities that involve residence; the construction, presence, or maintenance of temporary or permanent structures that may be used for such purposes; or the use of a watchman or caretaker for the purpose of monitoring activities. Residence or structures include, but are not limited to, barriers to access, fences, tents, motor homes, trailers, cabins, houses, buildings, and storage of equipment or supplies.

You must follow these rules: In the absence of any site specific regulations or local supplemental rules, no person or associations of persons may occupy, camp or leave property or motor vehicles on public lands for more than 14 days within any period of 30 consecutive days. The 14-day limit may be reached either through a number of individual visits or through 14-days of continuous occupation during the 30-day interval. It is also prohibited to leave any personal property, whether attended or unattended, beyond the 14-day period. All personal property and refuse must be removed within the 30-day interval, even if the use of or actual camping at the site has ceased. A 30-day interval begins when a person initially occupies camps or leaves property at a site on public lands. Any camp relocation within the 30-day period shall not be within a 5 mile radius from the original site.

Under special circumstances and upon request, the authorized officer may issue written permits for extension of the 14-day limit.

**Penalties**

On all public lands, under Section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, any person who violates any of these supplementary rules, closures or restrictions within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

On public lands within grazing districts (43 U.S.C. 315) and grazing leased lands (43 U.S.C. 315m), under the Taylor Grazing Act, 43 U.S.C. 315(a), any person who violates any of these supplementary rules within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $500.00. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

On public lands fitting the criteria in the Sikes Act, 16 U.S.C. 670j(a)(2), any person who violates any of these supplementary rules within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $500 or imprisoned for no more than six months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

On public lands within Wild and Scenic River corridors (43 CFR 8351.2–1) any person who violates any of these supplementary rules within the boundaries established in the rules may be tried before a United States Magistrate and fined no more than $500 or imprisoned for no more than six months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

**Martin C. Ott,**

*Montana/Dakotas State Director, Bureau of Land Management.*

[FR Doc. E7–7265 Filed 4–19–07; 8:45 am]

**BILLING CODE 4310–$$–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[FES 07–05]**

### Upper Rio Grande Basin Water Operations Review

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of Availability for the Final Environmental Impact Statement for the Upper Rio Grande Basin Water Operations Review.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969 (as amended), the Bureau of Reclamation (Reclamation), with and on behalf of other joint-lead agencies [U.S. Army Corps of Engineers (Corps), Department of Defense; and the New Mexico Interstate Stream Commission (Commission), State of New Mexico], has prepared and made available to the public a final environmental impact statement (FEIS) to assess the consequences of proposed changes to water operations in the Rio Grande basin above Fort Quitman, Texas. The FEIS is programmatic and is not intended to authorize specific projects in the upper Rio Grande system. It is anticipated that a plan for water operations at existing Reclamation and Corps facilities will be developed.

The FEIS presents alternatives with respect to water operations and evaluates the potential effects of each alternative on environmental, hydrologic, cultural, and socioeconomic resources, and Indian Trust Assets, including any potential disproportionate effects on minority or low income communities (environmental justice). The FEIS also evaluates the effects of alternatives on the State of New Mexico's ability to meet its obligations associated with the Rio Grande Compact. Some of the alternatives considered include changing the channel capacity criteria at Albuquerque, storage or non-storage of Rio Grande water in authorized San Juan-Chama space in Abiquiu Reservoir, and possible future resumption of operations of the currently unfunctional Low Flow Conveyance Channel.

A draft environmental impact statement (DEIS) was filed with the Environmental Protection Agency on January 20, 2006, and a Notice of Availability for the DEIS was published in the **Federal Register** on that same date. The original 60-day review and comment period for the DEIS was extended an additional 30 days to April 20, 2006, with publication of a Notice of Extension in the **Federal Register** on March 24, 2006. During the comment period, one public meeting was held in Colorado, one public meeting was held in Texas, and six public meetings were held in New Mexico. All comments received on the DEIS were carefully reviewed and considered in preparing the FEIS. Where appropriate, revisions were made to the document in response to specific comments. The comments and responses, together with the FEIS, will be considered in determining whether or not to implement the proposed action.

**ADDRESSES:** The FEIS is electronically available for viewing and copying at the Corps' Albuquerque District Web site at: *http://www.spa.usace.army.mil/urgwops/default.asp.* Alternatively, a compact disc or hard copy is available upon written request to Ms. Valda

Terauds, Bureau of Reclamation, Albuquerque Area Office, 555 Broadway NE, Suite 100, Albuquerque, New Mexico 87102.

Copies of the FEIS are available for public inspection and review at the following locations:

- Bureau of Reclamation, Albuquerque Area Office, 555 Broadway NE., Suite 100, Albuquerque, New Mexico 87102
- Southern Peaks Public Library, 423 4th Street, Alamosa, Colorado 81101
- Taos Public Library, 402 Camino de la Placita, Taos, New Mexico 87571
- City of Española Library, 405 Paseo de Onate, Española, New Mexico 87532
- Albuquerque Main Library, 501 Copper NW., Albuquerque, New Mexico 87102
- Santa Fe Public Library, 145 Washington Street, Santa Fe, New Mexico 87501
- El Paso Public Library, Clardy Fox Branch, 5515 Robert Alva Avenue, El Paso, Texas 79905
- Thomas Branigan Memorial Library, 200 East Picacho Avenue, Las Cruces, New Mexico 88001
- Socorro Public Library, 401 Park Street, Socorro, New Mexico 87801

**FOR FURTHER INFORMATION CONTACT:** Ms. Valda Terauds, Bureau of Reclamation, Albuquerque Area Office, 555 Broadway NE., Suite 100, Albuquerque, New Mexico 87102; telephone 505–462–3584; facsimile 505–462–3593; e-mail: *vterauds@uc.usbr.gov.*

Ms. April Sanders, U.S. Army Corps of Engineers Albuquerque District, 4101 Jefferson Plaza NE, Albuquerque, New Mexico 87109; telephone 505–342–3443; facsimile 505–342–3195; e-mail: *april.f.sanders@usace.army.mil.*

Mr. Nabil Shafike, PhD, New Mexico Interstate Stream Commission, 121 Tijeras NE, Suite 2000, Albuquerque, New Mexico 87102; telephone 505–764–3866; facsimile 505–764–3893; e-mail: *nabil.shafike@state.nm.us.*

**SUPPLEMENTARY INFORMATION:** Pursuant to various legal authorities, and subject to allocation of supplies and priority of water rights under state law, Reclamation and the Corps operate dams, reservoirs, and other facilities in the upper Rio Grande basin to:

(1) Store and deliver water for agricultural, domestic, municipal, industrial, and environmental uses;

(2) Assist the Commission in meeting downstream water delivery obligations mandated by the Rio Grande Compact;

(3) Provide flood protection and sediment control; and

(4) Comply with existing laws, contract obligations, and international treaties.

The Upper Rio Grande Basin Water Operations Review (Review) provides the basis of, and is integral to, preparation of the FEIS. The purpose of the Review and FEIS is to:

(1) Identify flexibilities in operation of federal reservoirs and facilities in the upper Rio Grande basin that are within existing authorities of Reclamation, the Corps, and the Commission, and in compliance with Federal and State laws;

(2) Develop a better understanding of how these facilities could be operated more efficiently and effectively as an integrated system;

(3) Formulate a plan for future water operations at these facilities that is within the existing authorities of Reclamation, the Corps, and the Commission; complies with Federal, State, and other applicable laws and regulations; and assures continued safe dam operations;

(4) Improve processes for making decisions about water operations through better interagency communication and coordination and facilitation of public review and input; and

(5) Support compliance by the Corps, Reclamation, and the Commission with applicable laws and regulations, including, but not limited to, the National Environmental Policy Act and the Endangered Species Act.

The FEIS addresses water operations at the following facilities with the noted exceptions and limitations:

- Flood control operations at Platoro Reservoir (the Review and FEIS include only flood control operations at Platoro that are under the Corps' authority; water supply operations at Platoro are under local control)
- Closed Basin Division-San Luis Valley Project
- Heron Dam and Reservoir
- Abiquiu Dam and Reservoir
- Cochiti Dam and Reservoir
- Low Flow Conveyance Channel
- Flood control operations at Elephant Butte Dam and Reservoir (because of current litigation, water supply operations at Elephant Butte are not included in the Review or FEIS)
- Flood control operations at Caballo Dam and Reservoir (because of current litigation, water supply operations at Caballo are not included in the Review or FEIS).

### Proposed Federal Action

Reclamation, the Corps, and the Commission identified Alternative E–3 as the preferred alternative for water operations in the upper Rio Grande basin. This alternative allows for increased native (Rio Grande) water conservation and storage in Abiquiu Reservoir, maintains current channel capacity below Abiquiu Dam, increases channel capacity below Cochiti Dam, and allows a full range of operation for the Low Flow Conveyance Channel, with continued communication and coordination for flood control operations at Elephant Butte and Caballo Dams.

No decision will be made on the proposed Federal action until 60 days after the release of the FEIS. After the 60-day waiting period, Reclamation, the Corps, and the Commission will complete individual agency Records of Decision. The Records of Decision will identify the action(s) that will be implemented and discuss all factors leading to the decision(s).

Dated: March 2, 2007.

**Rick L. Gold,**

*Regional Director—Upper Colorado Region, Bureau of Reclamation.*

[FR Doc. E7–7034 Filed 4–19–07; 8:45 am]

**BILLING CODE 4310–MN–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 332–487]**

### Wood Flooring and Hardwood Plywood: Competitive Conditions Affecting the U.S. Industries

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation and scheduling of hearing.

**SUMMARY:** Following receipt on March 6, 2007, of a request from the Senate Committee on Finance, the Commission instituted investigation No. 332–487, *Wood Flooring and Hardwood Plywood: Competitive Conditions Affecting the U.S. Industries,* under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

**DATES:**

April 11, 2007: Date of institution.
August 22, 2007: Deadline for filing requests to appear at the public hearing.
August 29, 2007: Deadline for filing pre-hearing briefs and statements.
September 13, 2007, 9:30 a.m.: Public hearing.
October 5, 2007: Deadline for filing post-hearing briefs and statements.
December 28, 2007: Deadline for filing written statements.
June 6, 2008: Transmittal of report to the Committee on Finance.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States

International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Industry-specific information may be obtained from Fred Forstall, Co-Project Leader, (202–205–3443 or *alfred.forstall@usitc.gov*), or David Ingersoll, Co-Project Leader, (202–205–2218 or *dave.ingersoll@usitc.gov*). For information on legal aspects of the investigation, contact William Gearhart of the Commission's Office of the General Counsel at 202–205–3091 or *william.gearhart@usitc.gov*. The media should contact Margaret O'Laughlin, Office of External Relations at 202–205–1819 or *margaret.olaughlin@usitc.gov*. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Secretary at 202–205–2000.

**SUPPLEMENTARY INFORMATION:** As requested by the Committee, the Commission will conduct an investigation and provide a report that contains, to the extent possible, the following information:

1. An overview of the U.S. markets for solid and engineered wood flooring (both unfinished and factory finished products), and hardwood plywood;

2. A description of the U.S. industries for wood flooring and hardwood plywood and the industries in the principal countries (including Canada, China, Brazil, Indonesia, Malaysia, and Russia) supplying the U.S. market, including trends in production, capacity, employment, and consumption;

3. An examination of U.S. trade patterns and the factors affecting trade patterns, including tariffs and other border measures;

4. An analysis of the factors affecting the competitive position of U.S. producers and the principal foreign suppliers to the U.S. market including raw materials, illegal logging, technological capabilities, labor practices, environmental policies, government programs, and substitutes for wood flooring and hardwood plywood;

5. Views of industry, homebuilders, importers and other interested parties on developments in the supply of and the demand for wood flooring and hardwood plywood, including the effect of imports and substitutes for each product.

As requested by the Committee, the Commission will provide its report no later than June 6, 2008.

*Public Hearing:* A public hearing in connection with this investigation will be held beginning at 9:30 a.m. on September 13, 2007, at the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary not later than the close of business (5:15 p.m.) on August 22, 2007, in accordance with the requirements in the ''Submissions'' section below. Any pre-hearing briefs or statements should be filed not later than 5:15 p.m., August 29, 2007. The deadline for filing post-hearing briefs and statements is 5:15 p.m., October 5, 2007. In the event that, as of the close of business on August 22, 2007, no witnesses are scheduled to appear at the hearing, the hearing will be cancelled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary (202–205–2000) after August 22, 2007, to determine whether the hearing will be held.

*Written Statements:* In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning this investigation. All submissions should be addressed to the Secretary, and should be received no later than the close of business on December 28, 2007. All written submissions must conform with the provisions of § 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or a copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except as permitted by section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8) (See Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*. Any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. In its request letter, the Committee stated that it intends to make the Commission's report available to the public in its entirety, and asked that the Commission not include any confidential business information in the report it sends to the Committee. The report that the Commission sends to the Committee will not contain any such information. Any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information.

Issued: April 16, 2007.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7–7540 Filed 4–19–07; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Procedures for H–2B Temporary Labor Certification in Non-Agricultural Occupations

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice updates procedures for State Workforce Agencies and ETA National Processing Centers to process H–2B labor certification applications in non-agricultural occupations.

**SUPPLEMENTARY INFORMATION:**

**I. References**

Immigration and Nationality Act (INA) Section 101(a)(15)(H)(ii)(b), Title

20 Code of Federal Regulations (CFR) parts 652 and 655; Title 8 CFR 214.2(h)(6); 70 FR 41430, Jul. 19, 2005; General Administration Letter (GAL) 01–95, Procedures for H–2B Temporary Labor Certification in Nonagricultural Occupations; GAL 01–95, Change 1, Procedures for H–2B Temporary Labor Certification in Nonagricultural Occupations; and Field Memorandum (FM) 25–98, H–2B Temporary Non-Agricultural Labor Certification Program Requirements.

**II. Background**

The H–2B non-immigrant program permits employers to hire foreign workers to come to the United States (U.S.) and perform temporary non-agricultural services or labor on a one-time, seasonal, peakload, or intermittent basis. The H–2B visa classification requires a temporary labor certification from the Secretary of Labor advising the Department of Homeland Security's United States Citizenship and Immigration Services (USCIS) as to whether qualified U.S. workers are available and whether the alien's employment will adversely affect the wages and working conditions of similarly employed U.S. workers, or a notice that such certification cannot be made, prior to filing an H–2B visa petition with USCIS. Historically, H–2B applications for non-agricultural occupations were processed through the Employment and Training Administration's (ETA) Regional Offices. However, in December 2004, the Department opened two new National Processing Centers (NPCs), one each located in Atlanta and Chicago. These Centers have been designated to process applications to employ foreign workers for temporary positions under the H–2B program. The Department published a notice in the **Federal Register** (70 FR 41430, Jul. 19, 2005), clarifying that employers must file two (2) originals of the ETA Form 750, Part A, directly with the State Workforce Agency (SWA) serving the area of intended employment and, once reviewed, the SWA will send the complete application to the appropriate NPC. That process does not apply to employer applications for boilermakers, entertainers, logging, and professional team sports, which were given special filing instructions in the notice.

**III. Procedures for H–2B Applications**

Attachment A outlines procedures that the SWAs and NPCs must use in making temporary labor certification determinations under the H–2B program. This guidance replaces and supersedes prior operating procedures issued under GAL 01–95, GAL 01–95, Change 1, and FM 25–98. It works in concert with the new centralized filing process at the NPCs to ensure greater consistency in the processing of H–2B applications. Special handling procedures for certain non-agricultural occupations, such as forestry workers and boilermakers, will be issued through separate guidance letters by the National Office.

**IV. Action Required**

NPC Directors and SWA Administrators are directed to provide Center and SWA staff involved in the processing of H–2B applications with a copy of these procedures.

**V. Inquiries**

Questions from State Workforce Agency staff should be directed to the appropriate NPC Certifying Officer. This information is also released in the form of a Training and Employment Guidance Letter (TEGL) which is available at: *http://www.doleta.gov/directives.*

Signed at Washington, DC, this 6th day of April, 2007.

**Emily Stover DeRocco,**

*Assistant Secretary, Employment and Training Administration, Labor.*

**Attachment A: Procedures for H–2B Certification of Temporary Non-Agricultural Occupations**

**I. General Provisions**

A. The regulations of the United States Citizenship and Immigration Service (USCIS), 8 CFR 214.2(h)(6), apply to employers who wish to import non-agricultural workers to perform services or labor in temporary jobs within the United States (U.S.). Section 214(c)(1) of the Immigration and Nationality Act (INA) requires the Department of Homeland Security (DHS) to consult with appropriate agencies of the government before granting H–2B petitions;

B. USCIS regulations state that employers who file H–2B petitions (except for temporary employment on Guam) must include a certification from the DOL stating that qualified workers are not available in the U.S., and the foreign worker's employment will not adversely affect the wages and working conditions of similarly employed U.S. workers;

C. The H–2B non-immigrant program permits employers to hire foreign workers to perform temporary non-agricultural work within the U.S. on a one-time occurrence, seasonal, peakload, or intermittent basis (8 CFR 214.2(h)(6)(ii)(B));

D. The DOL regulations at 20 CFR Part 655, Subpart A—*Labor Certification Process for Temporary Employment in Occupations Other Than Agriculture, Logging or Registered Nurses in the United States (H–2B Workers),* governs the labor certification process for temporary employment in the U.S. under the H–2B classification, and requires that the Regional Administrator (now National Processing Center (NPC)) Certifying Officer of the Employment and Training Administration (ETA) issue temporary labor certifications on behalf of the Secretary of Labor;

E. An H–2B temporary labor certification is advisory to USCIS and, where the employer is notified by the NPC Certifying Officer that certification is denied or cannot be made, the employer may submit countervailing evidence, according to 8 CFR Part 214.2(h)(6)(iv)(E), directly to USCIS. There is no provision for reconsideration or appeal of the determination made by the DOL through the NPC Certifying Officer.

**II. Standards for Determining the Temporary Nature of a Job Opportunity Under the H–2B Classification**

A. A job opportunity is considered temporary under the H–2B classification if the employer's need for the duties to be performed is temporary, whether or not the underlying job is permanent or temporary. It is the nature of the employer's need, not the nature of the duties, that is controlling (Matter of Artee Corp., 18 I&N Dec. 366 (Comm. 1982));

B. Part-time employment does not qualify as employment for temporary labor certification under the H–2B program. Only full-time employment can be certified;

C. The Federal regulations at 8 CFR Part 214.2(h)(6)(ii) state that the period of the petitioner's need must be a year or less, although there may be extraordinary circumstances where the temporary services or labor might last longer than one year. If there are unforeseen circumstances where the employer's need exceeds one year, a new application for temporary labor certification is required for each period beyond one year. However, an employer's seasonal or peakload need of longer than 10 months, which is of a recurring nature, will not be accepted;

D. The employer's need for temporary non-agricultural services or labor must be justified to the NPC Certifying Officer under one of the following standards: (1) A one-time occurrence, (2) a seasonal need, (3) a peakload need, or (4) an intermittent need.

1. *One-Time Occurrence.* The petitioner must establish that either (1) it has not employed workers to perform the services or labor in the past *and* that it will not need workers to perform the services or labor in the future, or (2) it has an employment situation that is otherwise permanent, but a temporary event of short duration has created the need for a temporary worker(s);

2. *Seasonal Need.* The petitioner must establish that the services or labor is traditionally tied to a season of the year by an event or pattern and is of a recurring nature. The petitioner shall specify the period(s) of time during each year in which it does not need the services or labor. The employment is not seasonal if the period during which the services or labor is not needed is unpredictable or subject to change or is considered a vacation period for the petitioner's permanent employees;

3. *Peakload Need.* The petitioner must establish that (1) it regularly employs permanent workers to perform the services or labor at the place of employment and that it needs to supplement its permanent staff at the place of employment on a temporary basis due to a seasonal or short-term demand, *and* (2) the temporary additions to staff will not become a part of the petitioner's regular operation; or

4. *Intermittent Need.* The petitioner must establish that it has not employed permanent or full-time workers to perform the services or labor, but occasionally or intermittently needs temporary workers to perform services or labor for short periods.

**III. Application Filing Procedures**

A. An employer desiring to use foreign workers for temporary non-agricultural employment must file a complete ETA Form 750, Part A, Offer of Employment portion of the Application for Alien Employment Certification with the State Workforce Agency (SWA) serving the area of intended employment. If the application includes worksite locations within a Metropolitan Statistical Area (MSA) covering multiple SWAs, the employer may submit a single application to the SWA where the employment will begin. In those instances where the employment crosses NPC jurisdictions as well, the NPC that has jurisdiction over the SWA where the employment will begin shall process the application.

The U.S. Census Bureau maintains a current listing of all MSAs as well as maps by state at the following Web site: *http://www.census.gov/population/www/estimates/metroarea.html.*

B. An association or other organization of employers is not permitted to file master applications on behalf of its membership under the H–2B program;

C. Job contractors typically supply labor to one or more employers as part of signed work contracts or labor services agreements. The temporary or permanent nature of the work to be performed in such applications will be determined by examining the job contractor's need for such workers, rather than the needs of its employer customers;

D. Every H–2B application shall include:

1. Two (2) originals of the ETA Form 750, Part A, Offer of Employment portion of the Application for Alien Employment Certification, signed and dated by the employer. Part B, Statement of Qualifications of the Alien, is not required to be completed;

2. Documentation of any efforts to advertise and recruit U.S. workers prior to filing the application with the SWA;

3. A detailed statement explaining (a) why the job opportunity and number of workers being requested reflect a temporary need, and (b) how the employer's request for the services or labor meets one of the standards of a one-time occurrence, a seasonal need, a peakload need, or an intermittent need. This statement of temporary need must be submitted separately on the employer's letterhead with signature. A labor shortage, however severe, does not alone establish a temporary need. One of the four temporary need standards must be satisfied;

4. Supporting evidence and documentation that justifies the chosen standard of temporary need must be submitted. Examples of supportive evidence or documentation for the most common standards of seasonal and peakload need include, but are not limited to, the following:

a. Signed work contracts, letters of intent from clients, and/or monthly invoices from previous calendar year(s) clearly showing that work will be performed for each month during the requested period of need on the ETA Form 750, Part A, Item—18b. This type of documentation will demonstrate that the employer's need for the work to be performed is tied to a season(s) of the year and will recur next year on the same cycle;

b. Annualized and/or multi-year work contracts or work agreements that are supplemented with signed work contracts specifying the actual dates when work will commence and end during each year of service;

c. Summarized monthly payroll reports for a minimum of one previous calendar year that identifies, for each month and separately for full-time permanent and temporary employment in the requested occupation, the total number of workers or staff employed, total hours worked, and total earnings received. Such documentation must be signed by the employer attesting that the information being presented was compiled from the employer's actual accounting records or system. Employers should be prepared to provide the documents utilized to generate the summarized monthly payroll reports if requested by the NPC Certifying Officer.

*Examples of insufficient documentation:* Work contracts with no clear termination date and contracts with temporary workers. Applications supported solely by weather charts, event calendars, hotel occupancy rates, or annual/quarterly tax reports (*e.g.*, IRS Form 941) will not be sufficient to prove a temporary need. Staffing charts, graphs, or other documentation, which do not correspond with the requested period of need on the ETA Form 750, Part A, Item—18b, will also not be sufficient to prove a temporary need.

E. To allow for enough time for the recruitment of U.S. workers and sufficient time for processing by the states and NPCs, the SWAs shall advise employers to file requests for temporary labor certification at least 60 days before the worker(s) is needed in order to receive a timely determination;

F. Unless the NPC Certifying Officer specifies otherwise, the SWA shall return to the employer any request for temporary labor certification filed by the employer more than 120 days before the worker(s) is needed and advise them to re-file the application no more than 120 days before the worker(s) is needed. This is necessary since the availability of temporary U.S. workers changes over short periods of time and an adequate test of the labor market cannot be made during a longer period;

G. More than one worker may be requested on the ETA Form 750, Part A, Item 18a, if they are to do the same type of work on the same terms and conditions, in the same occupation, in the same area(s) of intended employment during the same period. The total number of workers requested by the employer must also be specified in the advertisement and the job order required under Section IV of these instructions;

H. If the employer's representative files the application, the employer must sign the ''Authorization of Agent of Employer'' statement on the ETA Form 750, which authorizes the agent to act on the employer's behalf. An attorney must file a Notice of Appearance (Form

G–28) naming the attorney's client(s). The employer is fully responsible for the accuracy of all representations made by the agent on the employer's behalf;

I. When the job opportunity requires work to be done at multiple locations either within the jurisdiction of the SWA *or* within a MSA that covers multiple SWAs, the application must include the names and physical addresses of each location. This requirement also applies to job contractors filing H–2B applications.

**IV. SWA Processing Instructions**

A. The SWA shall review the job offer for completeness. A job opportunity containing a wage offer below the prevailing wage will not be accepted. The SWA shall determine the prevailing wage, guided by the regulations at 20 CFR Part 656.40 and in accordance with Employment and Training Administration, Prevailing Wage Determination Policy Guidance, Non-agricultural Immigration Programs, Revised May 9, 2005 (*http://www.foreignlaborcert.doleta.gov/pdf/Policy_Nonag_Progs.pdf*);

B. If the job offer is less than full-time, offers to pay a wage below the prevailing wage, contains unduly restrictive job requirements or a combination of duties not normal to the occupation, or has terms and conditions of employment which otherwise inhibit the effective recruitment and consideration of U.S. workers for the job, or is otherwise unacceptable, the SWA shall advise the employer to correct the deficiencies before commencing the recruitment;

C. When commencing recruitment, the SWA shall prepare a job order, using the information on the application, and place it into the SWA job bank system for 10 calendar days. During this period, the SWA should refer qualified applicants who contact the local offices and those in its active job files. If the application indicates that work will be performed in multiple locations within a MSA and one or more locations are outside the jurisdiction of the SWA, the SWA shall clear the job order for 10 calendar days with the appropriate state(s) where the work is to be performed and accept for referral to the employer qualified applicants from the state(s);

D. During the 10-day posting of the job order, the employer shall advertise the job opportunity in a newspaper of general circulation for 3 consecutive calendar days or in a readily available professional, trade or ethnic publication, whichever the SWA determines is most appropriate for the occupation and most likely to bring responses from U.S. workers. If the job opportunity is located in a rural area that does not have a newspaper with a daily edition, the employer shall use a daily edition with the widest circulation in the nearest urban area or such other publication as determined by the SWA;

E. The employer advertisement must:

1. Identify the employer's name and direct applicants to report or send resumes to the SWA for referral to the employer;

2. Describe the job opportunity with particularity, including duties to be performed, work hours and days, rate of pay, and the duration of the employment;

3. State the employer's minimum job requirements;

4. Offer wages, terms, and conditions of employment which are not less favorable than those offered to the alien and are consistent with the nature of the occupation, activity, and industry; and

5. State the total number of job openings the employer intends to fill.

F. The employer shall document that union and other recruitment sources, appropriate for the occupation and customary in the industry, were contacted *and* either unable to refer qualified U.S. workers or non-responsive to the employer's request. Such documentation must be signed by the employer;

G. The employer shall provide the SWA with copies of newspaper pages (*e.g.*, tear sheets) or other proof of publication (*e.g.*, affidavit of publication, invoices or other electronic verification) furnished by the newspaper for each day the advertisement was published. In addition, the employer shall submit to the SWA a written, detailed recruitment report that is signed by the employer. The written recruitment report must:

1. Identify each recruitment source by name;

2. State the name, address, and telephone number and provide resumes (if submitted to the employer) of each U.S. worker who applied for the job; and

3. Explain the lawful job-related reason(s) for not hiring each U.S. worker.

H. After the recruitment period, the SWA shall send the application, results of recruitment, prevailing wage findings, and all other supporting documentation to the appropriate NPC Certifying Officer;

I. Based on the results of the employer's and SWA recruitment efforts, the NPC Certifying Officer shall determine whether there are other appropriate sources of workers from which the employer should have recruited in order to obtain qualified U.S. workers. If further recruitment is warranted, the NPC Certifying Officer shall return the application to the SWA with specific instructions for additional recruitment.

**V. NPC Temporary Labor Certification Determinations**

A. The NPC Certifying Officer shall determine whether to grant or deny the temporary labor certification or to issue a notice that such certification cannot be made based on whether or not:

1. The nature of the employer's need is temporary and justified based on a one-time occurrence, seasonal, peakload, or intermittent basis. To determine this, the NPC Certifying Officer shall take into account the duration of the employment opportunity identified on the ETA Form 750, Part A, the employer's statement of temporary need, and all evidence and documentation submitted with the application intended to substantiate the chosen standard of temporary need.

2. Qualified U.S. workers are available for the temporary job opportunity.

a. To determine if a U.S. worker is available, the NPC Certifying Officer shall consider U.S. workers living or working in the area of intended employment, and may also consider U.S. workers who are willing to move from elsewhere to take the job at their own expense, or at the employer's expense, if the prevailing practice among employers who employ workers in the occupation is to pay such relocation expenses;

b. The NPC Certifying Officer shall consider a U.S. worker able and qualified for the job opportunity if the worker by education, training, experience, or a combination thereof, can perform the duties involved in the occupation as customarily performed by other U.S. workers similarly employed and is willing to accept the specific job opportunity; and

c. To determine if U.S. workers are available for job opportunities that will be performed in more than one location, workers must be available in each location on the dates specified by the employer.

3. The employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers. To determine this, the NPC Certifying Officer shall consider such factors as local or regional labor market information, special circumstances of the industry, organization, and/or occupation, the prevailing wage rate for the occupation in the area of intended employment,

and prevailing working conditions, such as hours of work; and

4. The job opportunity contains requirements or conditions which preclude consideration of U.S. workers or which otherwise prevent their effective recruitment, such as:

a. The job opportunity is vacant because the former occupant is on strike or locked out in the course of a labor dispute involving a work stoppage or the job is at issue in a labor dispute involving a work stoppage;

b. The job opportunity's terms, conditions, and/or occupational environment are contrary to Federal, state, or local law;

c. The employer has no location within the U.S. to which domestic workers can be referred and hired for employment;

d. The employer will not pay a wage or salary for the job to be performed;

e. The job's requirements are unduly restrictive or represent a combination of duties not normal to the occupation; or

f. The employer has not recruited U.S. workers according to DOL policies and procedures.

B. If the NPC Certifying Officer issues a notice that a certification is denied or cannot be made, the Final Determination letter shall:

1. Detail the reasons why certification cannot be made;

2. If applicable, address the availability of U.S. workers in the occupation as well as the prevailing wages and working conditions of similarly employed U.S. workers in the occupation;

3. Indicate the specific DOL policies the employer should have, but did not, follow; and

4. Advise the employer of the right to appeal by submit countervailing evidence directly to the USCIS.

C. If the NPC Certifying Officer issues a temporary labor certification, it shall be for the entire duration of the temporary employment opportunity identified on the ETA Form 750, Part A. If extraordinary circumstances establish a need that requires the non-agricultural services or labor for more than one year, a new application must be filed;

D. The date on the temporary labor certification shall be the beginning and ending dates of certified employment and the date certification was granted.

The beginning date of certified employment may not be earlier than the date certification was granted.

**VI. Document Transmittal**

A. After making a temporary labor certification determination, the NPC Certifying Officer shall notify the employer, in writing, of the final determination;

B. If certification is granted, the NPC Certifying Officer shall send the certified application containing the official temporary labor certification stamp and a Final Determination letter to the employer or, if appropriate, the employer's agent or attorney. The Final Determination letter shall direct the employer to submit all documents together with the employer's petition to the appropriate USCIS Office;

C. If a notice is issued that certification has been denied or cannot be made, the NPC Certifying Officer shall return one copy of the Application for Alien Employment Certification, ETA Form 750, supporting documents, and the Final Determination letter to the employer, or, if appropriate, to the employer's agent or attorney.

**VII. Appeal of Notice That A Certification Cannot Be Made**

A. The finding by the NPC Certifying Officer, that a certification cannot be made, is the final decision of the Secretary of Labor and is advisory to the USCIS. There is no provision for reconsideration or appeal of the decision within DOL;

B. In accordance with the USCIS regulations at 8 CFR Part 214.2(h)(6)(iv)(E), the employer may submit countervailing evidence directly to the USCIS that qualified persons in the U.S. are not available, that the employer's need for the duties to be performed is represented as temporary, that wages and working conditions of U.S. workers will not be adversely affected, and that the DOL's employment policies were observed.

**VIII. Validity of Temporary Labor Certifications**

A temporary labor certification is valid only for the number of aliens, the occupation, the area of employment, the specific occupation and duties, the period of time, and the employer specified on the Application for Alien Employment Certification, ETA Form 750.

[FR Doc. E7–7521 Filed 4–19–07; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

*Applicant/Location:* Student Assistance Foundation/Helena, Montana.

*Principal Product:* The loan, guarantee, or grant application is to construct a new primary office facility, refinance an existing office facility, and refinance land already acquired. The NAICS industry code for this enterprise is: 522294 Secondary Market Financing.

**DATES:** All interested parties may submit comments in writing no later than May 4, 2007. Copies of adverse comments received will be forwarded to the applicant noted above.

**ADDRESSES:** Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail *Dais.Anthony@dol.gov;* or transmit via fax 202–693–3015 (this is not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR part 75, authorizes the United States Department of Agriculture (USDA) to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration (ETA) within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed at Washington, DC, this 16th day of April, 2007.

**Gay M. Gilbert,**

*Administrator, Office of Workforce Investment, Employment and Training Administration.*

[FR Doc. E7–7507 Filed 4–19–07; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Employment and Training Administration Workforce Investment Act—Migrants and Seasonal Farmworkers Program—Solicitation for Grant Applications—National Farmworker Jobs Program, Housing Assistance for Program Year 2007

**AGENCY:** U.S. Department of Labor, Employment and Training Administration.

**ACTION:** New. Initial announcement of a grant competition for operating the Housing Assistance portion of the National Farmworker Jobs Program (NFJP), under section 167 of the Workforce Investment Act of 1998 (WIA), 29 U.S.C. 2912.

*Funding Opportunity Number:* SGA/DFA–PY 06–05.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 17.264.

**SUMMARY:** The U.S. Department of Labor (the Department or DOL), Employment and Training Administration (ETA), Office of Workforce Investment (OWI), Division of Adult Services (DAS), announces a grant competition for operating the housing assistance portion of the National Farmworker Jobs Program (NFJP), under section 167 of the Workforce Investment Act of 1998 (WIA), 29 U.S.C. 2912. All applicants for grant funds should read this notice in its entirety.

Section 167, paragraph (a) of WIA requires the Secretary to award grants or contracts on a competitive basis to eligible entities for the purposes of carrying out the activities authorized under section 167. Although housing assistance is identified in WIA as one of the allowable activities under the NFJP, Congressional appropriations language directs the Department to make available a specific amount of the funds appropriated for the NFJP for migrant and seasonal farmworkers housing assistance grants, and that no less than 70 percent of the specified amount must be used for permanent housing activities. Therefore, under this solicitation, of the $4,950,000 appropriated for NFJP Housing assistance, approximately $3,465,000 will be available for permanent housing assistance and approximately $1,485,000 for temporary and/or emergency housing assistance.

**DATES:** *Key Dates:* The closing date for receipt of applications under this announcement is May 29, 2007. Applications must be received at the address below no later than 5 p.m. Eastern Time.

**ADDRESSES:** Applications must be directed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: James Stockton, Room N–4673, 200 Constitution Avenue, NW., Washington, DC 20210.

**SUPPLEMENTARY INFORMATION:**

**Supplementary Information**

*Funding Opportunity Description*

The U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment (OWI), Division of Adult Services (DAS), is requesting applications for grants to operate the housing assistance portion of the National Farmworker Jobs Program (NFJP) in accordance with Section 167 of WIA, 29 U.S.C. 9201. The NFJP serves economically disadvantaged persons who primarily depend on employment in agricultural labor performed within the United States, including Puerto Rico, and who experience chronic unemployment or underemployment. Housing assistance is a supportive service offered to assist migrant and seasonal farmworkers to retain employment or enter into or complete training. Funds for housing assistance activities are made available through the NFJP appropriation included in the FY 2007 Continuing Appropriations Resolution, Pub. L. 110–5.

Housing assistance under the NFJP became available three decades ago as a tool to improve economic outcomes for farmworkers and was included as one of a number of supportive services to assist farmworkers to retain employment or enter into and/or remain in training. The NFJP regulations consider housing assistance one of a number of related assistance and/or supportive services available to eligible farmworkers through the NFJP (20 CFR 669.430). Over time, however, a strong link between the provision of housing assistance and achievement of employment, training, and earnings has eroded.

To once again establish a strong link between housing assistance activities and improved economic outcomes for farmworkers, the Department engaged in a dialogue with current and former housing assistance grantees to develop a set of principles and definitions of housing assistance that renewed the focus on employment and training objectives in future solicitations/competitions. The results of the dialogue are the Guiding Principles and Definitions that follow. Please note that a factor in scoring applications will be how well these Principles are applied to the proposed plan of services requested by this solicitation. The Definitions are intended to provide clarity for applicants as they develop their applications, and will also be factored into the scoring of the applications.

*Guiding Principles*

Housing Assistance Should Leverage Improved Economic Outcomes for Farmworkers

Housing assistance should enable migrant and seasonal farmworkers to retain employment, enter into, or complete job training activities, and improve their earnings. Housing is a service that supports the economic objectives of the NFJP.

Housing Assistance Services, and the Strategies Used To Deliver Them, Should Meet the Needs of All Farmworkers

Farmworkers seeking to improve their economic future have diverse housing needs. Moreover, these needs are not static but change over time. Strategies used to meet these diverse and dynamic housing assistance needs must be flexible and based on a mix of permanent and temporary housing and emergency assistance solutions tailored to regional and local needs.

Housing Developed With WIA 167 (NFJP) Funding Should Be Actively Marketed, and Broadly Accessible, to NFJP-Eligible Farmworkers

While occupancy of year-round and migrant rental units is not restricted to NFJP-eligible farmworkers, the strong link between housing assistance and the economic objectives of the NFJP should translate directly into broad access by NFJP farmworkers to housing assistance. Providing housing assistance to NFJP-eligible farmworkers should be a priority.

*Definitions*

*Permanent Housing* (and its corresponding housing assistance services) is defined as housing intended to be owner-occupied, or occupied on a permanent, year-round basis (notwithstanding ownership) as the farmworker's primary residence to which he/she typically returns at the

end of the work or training day, and assists the farmworker to stay employed or enter into or complete job training.

Permanent housing (services) includes: Rental units, single family, duplexes, and other multi-family structures, dormitory, group home and other housing types that provide short-term, seasonal, or year-round housing opportunities in permanent structures. Modular structures, manufactured housing or mobile units placed on permanent foundations and supplied with appropriate utilities and other infrastructure are also considered permanent housing.

Managing permanent housing assistance activities may require investments in development services, project management, resource development to secure acquisition, construction/renovation and operating funds, property management services and program management. New construction, purchase of existing structures, and rehabilitation of existing structures, as well as the infrastructure, utilities and other improvements necessary to complete or maintain those structures may also be considered part of managing permanent housing.

*Temporary housing* (and its corresponding housing services, including emergency housing assistance) is defined as housing intended to meet the farmworker's need to temporarily occupy a unit of housing for reasons related to seeking or retaining employment, or engaging in training. It is not owner-occupied housing, and those farmworkers most likely to utilize it are those engaged in migratory employment or seasonal workers whose employment requires occasional travel outside their normal commuting area.

Temporary housing includes housing units intended for temporary occupancy located in permanent structures, such as rental units in an apartment complex. Yurts, mobile structures, and tents that provide short-term, seasonal housing opportunities are also included. They may be moved from site to site, dismantled and re-erected when needed for farmworker occupancy, closed during the off-season, or other similar arrangements.

Temporary housing may also be off-farm housing operated independently of employer interest in or control of the housing, or on-farm housing operated by a nonprofit, including faith based or community non-profit organizations, but located on property owned by an agricultural employer. Managing temporary housing assistance may involve property management of temporary housing facilities, case management and referral services, and emergency housing payments, including vouchers and cash payments for rent/lease and utilities.

As mentioned earlier, applicants must design their programs around the aforementioned Guiding Principles and Definitions, since they will be used as scoring factors.

Applicants may propose to provide permanent housing assistance services only, temporary/emergency housing assistance services only, or both permanent and temporary/emergency housing assistance services. The proposal must describe the proposed housing services to be provided and discuss the reasons why the proposed service mix is best suited to meet the employment and training and program performance objectives of the NFJP. Awards made in cases where housing assistance services are proposed in a single category only (permanent or temporary/emergency) will reflect ETA's compliance with the Congressional mandate that seventy (70) percent of housing assistance funds be used to provide permanent housing assistance services.

Applicants proposing to offer both types of housing assistance services must clearly describe the permanent and temporary/emergency housing assistance services proposed to be provided, and discuss the reasons why the proposed service strategy is best suited to meet the employment and training and program performance objectives of the NFJP. Such applications must include separate budgets for the proposed permanent and temporary/emergency housing assistance, respectively. These separate budget requests must conform to the Congressional mandate that seventy (70) percent of housing assistance funds be used to provide permanent housing assistance services.

Housing assistance under the NFJP is subject to the requirements of WIA section 167 and the Department's regulations at 20 CFR part 669. This program is also subject to the requirements of 29 CFR parts 93 (New Restrictions on Lobbying), 96 (Audit Requirements), and 98 (Debarment, Suspension, and Drug-Free Workplace Requirements); the Department's non-discrimination regulations at 29 CFR part 34, the non-discrimination regulations implementing WIA Section 188 at 29 CFR part 37, and the Equal treatment regulations found at 29 CFR Part 2, Subpart D. Applicants should be familiar with and consult the WIA regulations at 20 CFR parts 660 through 671 in developing their grant proposals. Should the regulations at part 669 of WIA conflict with regulations elsewhere in 20 CFR, the regulations at part 669 will control.

In addition, this program is subject to the provisions of the ''Jobs for Veterans Act,'' Public Law 107–288, which provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in job training programs directly funded, in whole or in part, by the U.S. Department of Labor. In circumstances where NFJP housing assistance grant recipients must choose between two equally qualified candidates for housing assistance, one of whom is a veteran, the Jobs for Veterans Act requires that NFJP housing assistance grant recipients give the veteran priority of service by admitting him or her into the program. Please note that, to obtain priority of service, a veteran must meet the program's eligibility requirements. ETA Training and Employment Guidance Letter (TEGL) No. 5–03, along with additional guidance, is available at the ''Jobs for Veterans Priority of Service'' Web site at *http://www.doleta.gov/programs/vets.*

DAS will continue to work with grantees to develop a reporting and performance management and accountability system that allows for improved tracking of activities and performance results. Until such system is established, applicants awarded grants will be expected to report in narrative form on a quarterly basis. Instructions will be provided to organizations once grants are awarded.

## II. Award Information

The type of assistance instrument to be used for the NFJP Housing Assistance program is a grant. Grants awarded through this solicitation will be for a two-year period, as prescribed in WIA section 167. Please be advised that the $4,950,000 provides funding for the NFJP for PY 2007 only (July 1, 2007, through June 30, 2008). Therefore, second year funding will be dependent on the availability of funding through the FY 2008 appropriation process.

The amount available nationally for the NFJP Housing Assistance program is $4,950,000. The FY 2007 Continuing Appropriations Resolution, Public Law 110–5, provides that no less than 70 percent of this amount shall be used for permanent housing activities. Therefore, approximately $3,465,000 will be available for permanent housing activities, and $1,485,000 will be available for temporary and emergency housing activities. Applicants are reminded that separate budgets and descriptions of activities are required for permanent and temporary and/or

emergency housing assistance, particularly in cases where the applicant organization intends to provide both types of services.

In the past, housing grantees have typically provided housing assistance services in more than one state or area of a state. Therefore, for applications covering more than one area, applicants will be required to submit detailed information about the services to be provided in each of the areas covered by the proposal, including information regarding sub-grantees, if any. The application must include a detailed budget for each of the sub-grantees and describe the housing assistance services to be provided by each sub-grantee. Applications that propose to use sub-grantees but contain one budget for the entire project, without the breakdown for the sub-grantees, will be considered non-responsive and will not be reviewed.

The number and funding amount of grants awarded will vary depending on the number of applications received and found to be fundable. In the past, awards have ranged from approximately $150,000 to approximately $1,000,000.

**Note:** Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, the Department may enter into negotiations about such items as program components, the budget proposal, staffing and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

## III. Eligibility Information

*Eligible Applicants*

Applicants need not be a current or prior housing assistance grantee to be eligible for a grant award under this solicitation. State workforce agencies and State Workforce Boards, Local Workforce Investment Boards (LWIBs), and faith-based and community organizations are examples of the entities eligible to apply for a grant award.

To provide housing assistance services to eligible migrant and seasonal farmworkers under WIA section 167, whether permanent, temporary/emergency, or a mix of both, the Department will select those proposals that are deemed most responsive to the requirements of this solicitation, as reviewed and scored during the review panel process. To that end, proposals must show that the applicant:

—Has an understanding of the housing market in the area(s) they propose to serve, as well as an understanding of the housing needs of migrant and seasonal farmworkers;

—Has a familiarity with the housing conditions in the proposed service area, the housing assistance available from other agencies in the service area, and the impact of both those elements on the housing needs of farmworkers; and

—Has the capacity to effectively administer a housing assistance program with the proper administrative and fiscal oversight and integrity.

Additionally, to be responsive to the requirements of this solicitation, applicants must demonstrate how the proposed service plan will reflect the Guiding Principles described in Section I of this solicitation.

Applicants must describe their collaboration and working relationships with other agencies in the proposed service area that may provide housing or employment assistance, such as the One-Stop system and the wider community of social service agencies, including faith-based and community organizations.

The proposal should describe the expected results of those relationships on the development of and enhanced housing assistance services for farmworkers under this grant, if an award is made.

*Cost Sharing or Matching*

The WIA section 167 program does not require grantees to share costs or provide matching funds.

*Other Eligibility Criteria*

In accordance with 29 CFR part 98, entities that are debarred or suspended are excluded from Federal financial assistance and are ineligible to receive a WIA section 167 housing assistance grant.

Prior to awarding a grant, the Department will conduct a responsibility review of each potential grantee through available records. The responsibility review relies on testing available records to determine if an applicant has a satisfactory history of accounting for Federal funds and property. The responsibility review is independent of the competitive process. Applicants failing to meet the requirements of this section may be disqualified for selection as grantees, irrespective of their standing in the competition. Any applicant not selected as a result of the responsibility review will be advised of their appeal rights. The responsibility tests that will be applied are those present in the WIA regulations (20 CFR 667.170).

*Legal Rules Pertaining to Inherently Religious Activities by Organizations That Receive Federal Financial Assistance*

The government is generally prohibited from providing direct financial assistance for inherently religious activities. Please note that, in this context, the term direct financial assistance means financial assistance that is provided directly by a government entity or an intermediate organization, as opposed to financial assistance that an organization receives as the result of the genuine and independent private choice of a beneficiary. These grants may not be used for religious instruction, worship, prayer, proselytizing, or other inherently religious activities. Neutral, non-religious criteria that neither favor nor disfavor religion must be utilized in the selection of grant recipients and sub-recipients. The Department's Equal Treatment regulations can be found at 29 CFR Part 2, Subpart D.

## IV. Application and Submission Information

*Address To Request Application Package*

This SGA includes all information and forms needed to apply for this funding opportunity. If additional copies of forms are needed, they can be found at *http://www.doleta.gov/msfw* and *http://www.doleta.gov/sga.*

*Content and Form of Application Submission*

An application must include two (2) separate and distinct parts: Part I—a cost proposal, and Part II—a technical proposal. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be reviewed. Part I of the proposal is the Cost Proposal and must include the following items:

• A cover letter, an original plus two (2) copies of the proposal, and an ink-signed original SF 424, ''Application for Federal Assistance,'' must be submitted. As of October 12, 2003, all applicants for federal grant and funding opportunities are required to have a Dun and Bradstreet (DUNS) number (see OMB Notice of Final Policy Issuance, 68 FR 38402, dated June 27, 2003). Applicants must supply their DUNS number in item #8 of the new SF 424 issued by OMB (Rev. 10–2005). 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 Standard Form (SF) 424–A. In preparing the budget form, the applicant must provide a concise narrative explanation to support the request. The budget narrative should break down the budget and discuss precisely how the administrative costs support the project goals.

• EEO Survey. Applicants are 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.*

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 solicitation. The Technical Proposal should be limited to 20 numbered pages, double-spaced and single-sided, in 12-point text font with one-inch margins. Any pages over the 20 page limit will not be reviewed. It should be noted that letters of support and any required attachments will not be subject to the page limitations; letters of support will not be included in the materials provided to the panel for review of the proposal.

No cost data or reference to prices should be included in the Technical Proposal. Instead, applicants should include a two-page abstract summarizing the proposed project and applicant profile information including the applicant's name, the project title, and the funding level requested. The two-page abstract is not included in the 20-page limitation. Applications that do not meet these requirements will not be reviewed.

*Submission Dates and Times*

The closing date for receipt of applications under this announcement is May 29, 2007. Applications must be received at the address below no later than 5 p.m. Eastern Time on the closing date. Applications may be submitted by mail or electronically through Grants.gov at the address listed 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 honored. 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: James Stockton, Reference SGA/DFA PY 04–07, 200 Constitution Avenue, NW., Room N–4673, Washington, DC 20210. Applicants are advised that mail delivery in the Washington, DC area may be delayed due to mail decontamination procedures. Hand-delivered proposals will be received at the above address.

Applicants may apply online at *http://www.grants.gov.* Any application received after the deadline will not be accepted. For applicants submitting electronic applications via Grants.gov, it is strongly recommended that they immediately initiate and complete the ''Get Started'' steps to register with Grants.gov, at *http://www.grants.gov/GetStarted.* These steps will probably take multiple days to complete, which should be factored in to an applicant's plans for electronic applications submission in order to avoid unexpected delays that could result in the rejection of the application. Also, it is recommended that applicants experiencing problems with electronic submissions submit their proposals by overnight mail until the electronic issues are resolved. Other submission options are discussed in Section IV of this announcement.

*Late Applications*

Any application received after the closing 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 and (a) it was sent by the U.S. Postal Service registered or certified mail no 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 postmarked by the 15th of that month); or (b) it was sent via professional overnight delivery service or submitted on Grants.gov to the addressee not later than one working day prior to the date specified for receipt of applications.

The term ''working days'' excludes weekends and Federal holidays. ''Postmarked'' means that a printed, stamped, or otherwise placed 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.

*Intergovernmental Review*

Executive Order (E.O.) No. 12372, ''Intergovernmental Review of Federal Programs,'' and the implementing regulations at 29 CFR part 17 are applicable to this program. Under these requirements, an applicant must provide a copy of the funding proposal for comment to the states that have established a consultation process under the E.O. Applications must be submitted to the state's Single Point of Contact (SPOC), no later than the deadline for submission of the application to the Department. For states that have not established a consultative process under E.O. 12372, but have a State Workforce Investment Board (State Board), the State Board will be the SPOC. For WIA implementation purposes, this consultative process fulfills the requirement of WIA Section 167(e) concerning consultation with Governors and Local Workforce Investment Boards (LWIB). To strengthen the implementation of the E.O., the Department establishes a timeframe for the treatment of comments from the state's SPOC on WIA Section 167 applications (including housing assistance). The SPOC must submit comments, if any, to the Department and the applicant no later than 30 days after the deadline for submission of the application. The applicant's response to the SPOC comments, if any, must be submitted to the Department no later than 15 days after the postmarked date of the comments from the SPOC. The Department will notify the SPOC of its decision regarding the SPOC comments and the applicant's response, and implement that decision within 10 days after notification to the SPOC.

The names and addresses of the SPOCs are listed in the Office of Management and Budget's (OMB) home page at *http://www.whitehouse.gov/omb/grants/spoc.html.*

*Funding Restrictions*

As mentioned earlier in this document, appropriations language requires that no less than 70 percent of the funds available through this solicitation must be spent on permanent housing activities. Given this requirement, applicants should clearly identify the types of housing assistance services that will be provided to farmworkers, particularly in cases where an applicant is proposing to provide both permanent and temporary housing assistance.

Applicants are advised that the requirement to spend 70 percent of the funds available through this solicitation on permanent housing may affect the number of applications funded and/or the amount of funding per grant.

Administrative costs are limited to fifteen (15) percent of the grant (see definition of administrative costs at 20 CFR 667.220). Administrative costs limits higher than fifteen (15) percent will not be approved.

*Indirect Cost Rate*

An indirect cost rate is required when an organization operates under more than one grant or other activity, whether Federally-assisted or not. Organizations must use the indirect cost rate supplied by the cognizant Federal agency. If an organization requires a new indirect cost rate or has a pending indirect cost rate, the Grant Officer will award a billing rate for 90 days until a provisional rate can be issued.

*Allowable Costs*

The Department shall determine what constitutes allowable cost in accordance with the following Federal cost principles, as applicable: OMB Circular A–87, State and Local Governments; OMB Circular A–21, Educational Institutions; OMB Circular A–122, Nonprofit Organizations; and 48 CFR Part 31, Profit-making Commercial Firms.

*Other Submission Requirements*

All other submission materials are identified in the various sections of this solicitation.

**V. Application Review Information Criteria**

The following full review criteria, totaling a maximum of 100 points, applies to all applications:

*Understanding the Housing Assistance Needs of the Eligible Migrant and Seasonal Farmworkers in the Proposed Service Area(s)—20 Points*

The Guiding Principles contained in Section I of this solicitation reflect critical elements for a sound housing assistance strategy, including how housing assistance services should leverage improved outcomes for farmworkers, and that housing developed with NFJP funding should be actively marketed and broadly accessible to NFJP-eligible farmworkers. These Principles, along with an understanding of the housing market in the proposed service area(s) and the problems faced by migrant and seasonal farmworkers in accessing that market, are critical to the formulation of an effective housing assistance strategy. In addition, an effective strategy of outreach to migrant and seasonal farmworkers is essential to meeting their housing assistance needs, as discussed in the Principles.

Applicants must describe the housing market in the proposed service area(s), including a description of employer-provided housing, if any; publicly-subsidized housing, if any; and the problems encountered by migrant and seasonal farmworkers in accessing affordable housing. Include a discussion of the problems faced by migrant and seasonal farmworkers in getting and keeping a job, or in participating in training activities that lead to improved economic outcomes, as a result of housing needs going unmet. Applicants must also describe their strategy for identifying and conducting outreach to eligible farmworkers with housing needs. In cases where a number of different organizations are jointly applying, this section must include the requested information for each of the areas covered by the potential sub-grantee organizations. Scoring on this factor will be based on how the tenets included in the Principles were incorporated in the applicant's analysis of the housing market in the area(s) of proposed services, as well as any studies and analyses conducted to determine farmworker housing assistance needs. Scoring will also take into account the quality of the applicant's analysis of housing assistance available through other housing assistance organizations, including faith-based and community organizations, and the applicants' plans to integrate their housing assistance services with those already present in the proposed area(s). The applicant's analysis must demonstrate an in-depth knowledge of the housing market in the service area(s) and how housing availability impacts a farmworker's ability to obtain and retain employment, or participate in training or other activities that lead to improved economic outcomes.

*Familiarity With the Proposed Service Area(s)—20 Points*

Familiarity with the housing conditions in the proposed service area(s) and the housing assistance available from other sources in that area(s) is essential to providing housing assistance services that are appropriate for the migrant and seasonal farmworkers in need of services, to assure non-duplicative use of WIA Section 167 housing assistance funds, and to reflect the Principles described in Section I of this solicitation.

Applicants must provide an analysis of the housing assistance resources available from all sources in the proposed service area(s), including employer-sponsored housing, state and local agencies, the One-Stop system, and housing assistance organizations, including faith-based and community organizations. Applicants must describe their efforts to engage these resources on behalf of farmworkers, including any successful efforts in the past, and the results of those efforts. Applicants must also describe the strategies they propose to ensure access to these housing opportunities by eligible migrant and seasonal farmworkers, emphasizing the different strategies for each farmworker population. In cases where a number of different organizations are jointly applying, this section must include the requested information for each of the areas covered by the potential sub-grantees.

Scoring on this factor will be based on the comprehensiveness and quality of the mapping of housing assistance resources available from sources other than WIA section 167 funds, and the applicant's strategy for using other housing assistance funds to maximize the housing assistance services available to migrant and seasonal farmworkers.

*Administrative Capacity—20 Points*

The capacity to effectively administer a housing assistance program is contingent on effective and efficient systems to assure program and fiscal oversight and integrity.

Applicants must describe the management information and performance management systems to be used for reporting, and its performance accountability and management, fiscal management, and case management systems. The applicant must include a clear description of its experience with performance management systems and how the results achieved were applied to improved customer service. The discussion should include:

- A description of how eligibility to receive housing assistance services will be determined, including how that relates to improved employment outcomes for farmworkers;
- a discussion of whether the criteria used to determine eligibility differs among migrant and seasonal farmworker groups, and, if so, what the differences are, and the rationale for them.

Applicants must also describe their recordkeeping system in sufficient detail to demonstrate that it is sufficient to prepare financial reports and to trace funds to adequate levels of expenditures to ensure lawful spending. Please note that in cases where a number of different organizations are applying together, the lead agency will be expected to prepare a ''roll-up'' or aggregated report that clearly identifies the expenditures of each sub-grantee individually, as well as the combined total.

The WIA section 167 housing assistance program is required to use electronic reporting via the Internet. The applicant must describe its capacity to provide the equipment (including Personal Computers, software for word

processing and spreadsheets, individual e-mail accounts), access (including Internet access), and staff qualified to perform on-line reporting.

Scoring on this factor will be based on the quality and comprehensiveness of evidence presented to demonstrate that the applicant has effective management, program and fiscal accounting and reporting systems.

*Proposed Activities and Services—40 Points*

The applicant's discussion of the proposed approach to providing specific housing assistance services (permanent, temporary/emergency, or both) is the most important single element of the application, and must reflect the Principles contained in Section I of this solicitation. With regard to the requirements below, this section should clearly indicate whether different housing services strategies will be employed to meet the housing and related employment and training needs of seasonal farmworkers versus migrant farmworkers.

*Permanent Housing Assistance*

Applicants proposing to carry out permanent housing activities only must describe their system for identifying farmworkers in need of permanent housing assistance, including the process for eligibility determination and coordination with the NFJP grantee and the relevant state and local One-Stop system to ensure that the housing assistance supports an employment outcome or training objective for farmworkers eligible for NFJP services.

The proposal must:

- Describe all the phases of the permanent housing project, including pre-development activities, housing development, construction, lease-up, and post-leasing activities (or the activities leading to successful rehabilitation of existing permanent housing), and include a timeline that estimates the length of time required for each project to be undertaken;
- Include a description of the housing counseling activities to be provided to farmworkers (including information on first-time home ownership);
- Include the types of technical assistance to be provided to other housing organizations, if appropriate; and
- A description of the system that will be used to capture the number of referrals made from the NFJP grantee or other One-Stop system partners to permanent housing facilities or units established through a permanent housing program.

The proposal should include an estimate of the number of farmworkers to be assisted through the permanent housing program, and an estimate of how many of those farmworkers are also NFJP-eligible farmworkers.

*Temporary and/or Emergency Housing Assistance*

Applicants proposing to carry out temporary and/or emergency housing assistance only must describe their system for identifying farmworkers in need of temporary and/or emergency housing assistance, including the process for eligibility determination and coordination with the NFJP grantee in the state and, if applicable, with the relevant state and local One-Stop system, to ensure that the housing assistance supports an employment outcome or training objective for those farmworkers who are NFJP-eligible. The proposal must:

- Include a description of the case management approach to be used and the way the organization proposes to manage the delivery of temporary and/or emergency housing assistance services; and
- Describe the specific housing assistance services to be offered and the estimated number of migrant and seasonal farmworkers to be served through each proposed service (i.e., temporary and emergency housing, respectively). Separate information should be provided for temporary housing and for emergency housing;
- Describe how eligible farmworkers' housing assistance will be coordinated with training and related assistance services provided through the NFJP grantee if the applicant did not apply for or is not awarded an NFJP grant, as well as the Local Workforce Investment Board(s), which oversees strategic planning for all One-Stop partner programs.

*Permanent and Temporary/Emergency Housing Assistance*

Applicants proposing to conduct a plan of service that encompasses both permanent and temporary/emergency housing activities must provide all of the information requested above.

All applicants are responsible for clearly identifying the organization that will be responsible for delivering the services, whether permanent or temporary and/or emergency, in each proposed service area, i.e., the descriptions requested above must be included for each organization that will deliver housing services in cases where a number of different organizations are applying jointly.

Scoring on this factor will be based on evidence that the applicant has effectively used its knowledge and experience as presented in the previous sections, as applicable, to develop a housing assistance strategy. The housing strategy and plan of service must successfully meet the objectives of the Guiding Principles described in Section I of this solicitation and be tailored appropriately to meet the needs of migrant and seasonal farmworkers in the service area(s).

*Review and Selection Process*

The Grant Officer will select potential grantees utilizing all information available to him/her. A review panel will rate each proposal according to the criteria specified in this solicitation. Panel reviews are critical to the selection of grantees but are advisory in nature, and their recommendations are not binding on the Grant Officer. The Grant Officer will make the final selection determination based on what best meets the needs of migrants and seasonal farmworkers. The Grant Officer may, at his/her discretion, request an applicant to submit additional or clarifying information if needed to make a selection. Please note that selections may be made without further contact with the applicants. In such situations, an award will be based on the SF 424, which constitutes a binding offer.

**VI. Award Administration Information**

*Award Notices*

The Grant Officer will notify applicants, in writing, if they are selected as potential grantees. The notification will invite each potential grantee to negotiate the final terms and conditions of the grant, as applicable, will establish a reasonable time and place for negotiations, and will indicate the specific service delivery area and amount of funds to be allocated under the grant. FY 2007 funds will be awarded for the period July 1, 2007, through June 30, 2008.

An applicant that is not selected as a potential grantee or whose application has been denied in whole or in part by the Department will be notified in writing by the Grant Officer and advised of all appeal rights.

*Administrative and National Policy Requirements*

There are no additional administrative or national policy requirements besides those discussed elsewhere in this solicitation.

*Reporting*

Reporting for the WIA section 167 housing assistance program is under

consideration; applicants awarded grants will be apprised of the progress and the implications for grantees. Grantees will be required to submit reports on financial expenditures on a quarterly basis. In addition, until a reporting system is operational, grantees will be required to submit narrative reports on program participation and participant outcomes.

**VII. Agency Contacts**

Questions related to this solicitation may be directed to Ms. Mamie Williams, Grants Management Specialist; phone 202–693–3341; fax: 202–693–2879 (this is not a toll-free number). Please include a contact name, fax and telephone number.

This announcement is also being made available on the ETA Web site at *http://doleta.gov/sga/sga.cfm* and *http://www.grants.gov*.

Signed at Washington, DC, this 16th day of April, 2007.

**James W. Stockton,**

*Grant Officer.*

[FR Doc. E7–7496 Filed 4–19–07; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Workforce Investment Act—Migrants and Seasonal Farmworkers Program Solicitation for Grant Applications—National Farmworker Jobs Program for Program Year 2007

**AGENCY:** U.S. Department of Labor, Employment and Training Administration.

**ACTION:** New. Initial announcement of a Program Year (PY) 2007 grant competition for operating the National Farmworker Jobs Program (NFJP) under section 167 of the Workforce Investment Act of 1998 (WIA), 29 U.S.C. 2912.

*Funding Opportunity Number:* SGA/DFA–PY 06–04.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 17.264.

**SUMMARY:** The U.S. Department of Labor (the Department or DOL), Employment and Training Administration (ETA), Office of Workforce Investment (OWI), Division of Adult Services (DAS), announces a grant competition for operating the National Farmworker Jobs Program (NFJP), under section 167 of the Workforce Investment Act of 1998 (WIA), 29 U.S.C. 2912. All applicants for grant funds should read this notice in its entirety. Under WIA section 167 (a) the Secretary must award grants or contracts on a competitive basis to eligible entities for the purposes of carrying out the activities authorized under section 167. Under this solicitation, DAS anticipates that approximately $74,302,000, allotted among state service areas, will be available for grant awards for the NFJP.

**DATES:** *Key Dates:* The closing date for receipt of applications under this announcement is May 29, 2007. Applications must be received at the address below no later than 5 p.m., Eastern Standard Time.

**ADDRESSES:** Mailed applications must be directed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: James Stockton, Room N–4673, 200 Constitution Avenue, NW., Washington, DC 20210. Other submission options are discussed in Section IV of this solicitation.

**SUPPLEMENTARY INFORMATION:**

**I. Funding Opportunity Description**

The U. S. Department of Labor, Employment and Training Administration, Office of Workforce Investment (OWI), Division of Adult Services (DAS) is requesting grant applications for operating the National Farmworker Jobs Program (NFJP) in accordance with section 167 of the Workforce Investment Act of 1998 (WIA), 29 U.S.C. 2912. The NFJP is designed to serve economically disadvantaged persons who primarily depend on employment in agricultural labor performed within the United States, including Puerto Rico, and who experience chronic unemployment or underemployment. Qualifying participants are typically those persons employed on a seasonal or part-time basis in the unskilled and semi-skilled manual labor occupations in crop and animal production. Through training and other workforce development services, the program is intended to assist eligible migrants and seasonal farmworkers and their families to prepare for jobs likely to provide stable, year-round employment both within and outside agriculture.

The economic transformation brought about by advances in technology and information has ushered in the globalization era; in turn, this has caused the U.S. economy to put in place strategic and structural changes that allow businesses to adapt quickly to different business conditions. For workers, globalization has meant an increased emphasis on their ability to retool their skill requirements in response to new business needs. Agricultural employers and farmworkers face substantial challenges in adapting to the new, global economy. Increasingly, globalization has caused U.S. agricultural employers, particularly those smaller agricultural entities in rural areas, to face worker shortages and decreased markets for their products. Farmworkers and other agricultural laborers have found increasingly tighter employment markets, due in part to technological advances in harvesting a variety of crops, and the increased use of foreign agricultural workers by U.S. agricultural entities. In response to these developments, ETA has pursued, for the last five years, a strategy to assist agricultural employers and farmworkers alike by emphasizing greater access to the full spectrum of services available from locally-operated One-Stop Career Centers, not just services funded through the WIA Section 167 program (NFJP). This strategy is intended to continue the workforce system's movement towards integrated service delivery that is responsive to the demands of the labor market.

At the same time, ETA recognizes that while global competition is a national challenge, the effects are largely seen at the local/regional level, where localities and regions strive to develop innovative solutions to restart or reshape their economies. In an effort to assist such regional economies in accomplishing their goals for economic transformation, and to expand employment and advancement opportunities for American workers, ETA launched the Workforce Innovation in Regional Economic Development (WIRED) initiative in February 2006. The WIRED framework brings together all the key players in a region to leverage their collective public and private sector assets and resources in order to devise strategies that focus on infrastructure, investment, and talent development that will optimize innovation and successful regional transformation. The role of the workforce investment system under the WIRED framework is to focus on talent development strategies that provide new opportunities for American workers and catalyzes new job growth and regional economic competitiveness. Applicants are strongly encouraged to visit *http://www.doleta.gov/WIRED* for additional information on the WIRED initiative.

ETA believes that the NFJP can benefit from principles established under WIRED, particularly talent development strategies, and a continued commitment to an integration strategy established in previous years. Therefore, the PY 2007 SGA contains elements of both; i.e., it requires applicants responding to this SGA to design their programs around priorities that

continue to support the system's progress towards fully integrated services, as well as beginning the movement of the NFJP activities into the WIRED framework.

To that end, the following priorities are required to be addressed in all applications:

*Expansion of Employment Opportunities for Farmworkers Through Specific Targeting of Employers and Occupations in High Growth Industries—Building a Demand-Driven System*

The PY 2007 SGA builds upon the requirement initiated in the last NFJP grants competition that applicants establish an annual goal to increase the number of employers with whom they do business, to describe the strategies that demonstrate that continued expansion, as well as to ensure that such strategies result in enhanced employment opportunities for farmworkers. Applicants are required to provide an analysis of the industries currently in the regions where farmworkers work and live, particularly high growth industries; the occupations in those industries for which farmworkers could be trained; the outreach strategies to be used to ensure that opportunities are created for farmworkers to access those occupations; and an analysis of the farmworker labor pool in the area. Applicants must describe the challenges to be addressed in preparing farmworkers for these employment opportunities, including ''mapping'' the educational resources available in the requested service area that can be accessed to prepare farmworkers for these and other employment opportunities.

An analysis of the economic conditions in those areas/regions; how the conditions influence the availability of jobs in high growth industries; and how those economic conditions influence the influx of new industries to the state must be included. In addition, applicants are required to identify successful micro-enterprise and other entrepreneurial opportunities and practices for migrants and seasonal farmworkers, describe the strategies to be developed and implemented to lead the NFJP towards farmworker talent development through these entrepreneurial opportunities, and discuss how employers and other key players in the state will be involved in the development of these opportunities.

*A Balanced Program of Activities—Continued Progress Towards Enhanced Integration Through the One-Stop System With Improved Service Delivery and Increased Efficiencies*

Integrated service delivery remains essential to a demand-driven workforce system that effectively serves businesses and individuals. The workforce system must operate as a seamless system functionally organized around service delivery rather than as an array of separate programs with separate processes. The objective is for ''customers'' to be seen as customers of the workforce investment system, not a particular program. This goal is particularly important when focusing on targeted populations such as migrants and seasonal farmworkers. Better integration and delivery of services within the One-Stop system, of which the NFJP is a required partner, can significantly increase the number of farmworkers who receive high quality workforce investment services that lead to improved employment and earnings. It also leads to optimum use of limited resources by all the partners in the workforce system on behalf of their farmworker customers.

Critical to this goal is an applicant's strategy for balancing the mix of activities and services to be offered to farmworkers. Related assistance services (such as emergency assistance, supportive services, English as a Second Language, or other services intended to assist farmworkers to enter training or retain their employment) are an important component in the menu of services provided to farmworkers. However, the central focus of the NFJP remains employment and training services that lead to higher skilled and higher paid employment for farmworkers, either within or outside agriculture. Part of that focus must be to provide for career guidance, lifelong learning opportunities, and other educational approaches appropriate to the population to be served, such as apprenticeships and post-secondary education, that serves the applicant's talent development strategy and helps to leverage resources from other strategic partners in the system. Applicants must describe how their intended mix of program services, including appropriate educational activities, reflects the central importance of employment and training services that leverage economic outcomes for farmworkers. In addition, applicants are required to describe the strategic planning and operational steps they will undertake to have a significant, consistent impact on services integration.

The NFJP is subject to the requirements found at WIA section 167 and the Department's regulations at 20 CFR part 669. This program is also subject to the requirements of 29 CFR parts 93 (New Restrictions on Lobbying), 96 (Audit Requirements), and 98 (Debarment, Suspension, and Drug-Free Workplace Requirements), the non-discrimination regulations implementing WIA Section 188 at 29 CFR part 37, as well as DOL's Equal Treatment regulations, found at 29 CFR part 2, Subpart D. Applicants should be familiar with these requirements and consult the WIA regulations at 20 CFR parts 660 through 671 in developing their grant proposals. Should the regulations at part 669 of WIA conflict with regulations elsewhere in 20 CFR, the regulations at part 669 will control. In addition, this program is subject to the provisions of the ''Jobs for Veterans Act,'' Public Law 107–288, 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 the U.S. Department of Labor. In circumstances where a NFJP grant recipient must choose between two equally qualified candidates for training, one of whom is a veteran, the Jobs for Veterans Act requires that NFJP grant recipients give the veteran priority of service by admitting him or her into the program. Please note that, to obtain priority of service, a veteran must first meet the program's eligibility requirements. ETA Training and Employment Letter (TEGL) No. 5–03 (September 16, 2003) provides guidance on the scope of the Jobs for Veterans Act and its effect on current employment and training programs. TEGL No. 5–03, along with additional guidance, is available at the ''Jobs for Veterans Priority of Service'' Web site at *http://www.doleta.gov/programs/vets*.

The NFJP is subject to the common performance measures for job training and employment programs established by the Office of Management and Budget (OMB). Guidance on the common performance measures can be found in ETA's TEGL No. 17–05 (February 17, 2006), available at *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2195*.

Applications submitted in response to this SGA are required to include estimates of expected performance against these common performance measures. The common performance measures are: Entered Employment, Employment Retention, and Average Earnings. To assist applicants with their estimates, the current goals (PY 2006)

for the three measures are: Entered Employment—85%; Employment Retention—80%; and Average Earnings—$7,500.

Applicants are required to describe their reporting system that allows for the data collection necessary to report results against the common measures. The NFJP began data collection for the common measures on July 1, 2005.

**II. Award Information**

The type of assistance instrument to be used for the NFJP is the grant. Grants awarded through this solicitation will be for a two-year period, as prescribed in WIA Section 167. Please be advised that the $74,302,000 provides funding for the NFJP for PY 2007 only (July 1, 2007 through June 30, 2008). Therefore, second year funding will be dependent on the availability of funding through the FY 2008 appropriations process.

The amount available nationally for the NFJP state service area allotments is $74,302,000. State allocations are established through a formula process, and are published in a separate **Federal Register** Notice. Please refer to our Web site (*http://www.doleta.gov/MSFW/pdf/allocationtable.pdf*) for a list of individual state allocations.

For purposes of this SGA, applications are solicited for a single NFJP operation per state, to serve the migrant and seasonal farmworkers of each state and Puerto Rico, with the following exceptions:

- Connecticut and Rhode Island are a combined state service area;
- Delaware and Maryland are a combined state service area;
- Applications for the combined state service areas mentioned above must address the two states as a single geographic area, but the proposed service delivery plan for the combined state area must show that consideration has been given to the entire population of migrant and seasonal farmworkers working or residing within the combined geographic area;
- Between 4 and 6 applications will be selected to operate the NFJP program in the agricultural counties in California; and
- No application will be accepted to provide services in Alaska due to the state's small relative share of seasonal agricultural employment.

Please be advised that in the event that no grant application is received for a state, or all applications received are considered not fundable by the Grant Officer after the panel review and scoring process, or a grant agreement is not successfully negotiated with a selected applicant, the Department will offer the Governor of that state an opportunity to submit an application, if that state has not applied (i.e., if no state agency in that state applied for a grant in this competition). If the Governor does not accept this offer within 15 days after being notified, or the Department finds the Governor's application not fundable, the Department reserves the right to designate another organization to operate the NFJP in that state. In cases where the state agency was an applicant, and all applications are found not fundable or are not successfully negotiated, the Department reserves the right to designate another organization to operate the NFJP in that state.

**Note:** Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, the Department may enter into negotiations about such items as program components, staffing and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

**III. Eligibility Information**

*Eligible Applicants*—Applicants need not be a current or prior WIA Section 167 grantee to establish eligibility to be awarded a grant under this solicitation. State agencies, Local Workforce Investment Boards (LWIBs), faith-based and community organizations, institutions of higher learning, and other entities capable of delivering services on a statewide basis are all examples of organizations eligible to apply for WIA Section 167 grants. WIA Section 167(b) describes entities eligible to receive a grant as those that have:

—An understanding of the problems of eligible migrant and seasonal farmworkers, including their dependents;
—A familiarity with the geographical area to be served; and
—A demonstrated capacity to effectively administer a diversified program of workforce investment activities for eligible migrant and seasonal farmworkers.

Additionally, to be responsive to the requirements of this solicitation, applicants must demonstrate how the strategies contained in their applications will support the priorities described in Section I of this solicitation, i.e., expansion of employment opportunities for farmworkers through specific targeting of employers and occupations in high growth industries—building a demand-driven system; and a balanced program of activities—continued progress towards enhanced integration through the One-Stop system with improved service delivery and increased efficiencies.

Applicants must demonstrate how they will work with the State Workforce Investment Board (State Board) or Local Workforce Investment Boards (LWIBs), One-Stop operators in the service area(s), or other key institutions in the region to assure an integrated service delivery approach to farmworkers through the local One-Stop system and within the WIRED framework. This may include strategic planning and operational steps taken by the applicant and the State Board, LWIBs, or other partners likely to have a significant impact on services integration in the context of a regional economy.

If the applicant is a state, a LWIB or a One-Stop operator applying on behalf of the LWIB, the application must instead demonstrate how efforts have been will be undertaken to integrate services provided by all One-Stop partners. In addition, the application must also demonstrate efforts to enhance the workforce services provided to farmworkers, the expected outcomes for those services, and the ''next steps'' to be undertaken to continue to improve on any past integration efforts.

*Cost Sharing or Matching*—The WIA section 167 program does not require grantees to share costs or provide matching funds.

*Other Eligibility Criteria*—In accordance with 29 CFR Part 98, entities that are debarred or suspended shall be excluded from Federal financial assistance and are ineligible to receive a WIA Section 167 grant. Prior to awarding a grant, the Department will conduct a responsibility review of each potential grantee through available records. The responsibility review relies on examining available records to determine if an applicant has a satisfactory history of accounting for Federal funds and property. The responsibility review is independent of the competitive process. Applicants failing to meet the standards of the responsibility review may be disqualified for selection as grantees, irrespective of their standing in the competition. Any applicant that is not selected as a result of the responsibility review will be advised of their appeal rights. The responsibility tests that will be applied are those found in the WIA regulations (20 CFR 667.170).

*Legal rules pertaining to inherently religious activities by organizations that receive Federal financial assistance*—The government is generally prohibited from providing direct financial assistance for inherently religious

activities. Please note that, in this context, the term direct financial assistance means financial assistance that is provided directly by a government entity or an intermediary organization, as opposed to financial assistance that an organization receives as the result of the genuine and independent private choice of a beneficiary. These grants may not be used for religious instruction, worship, prayer, proselytizing, or other inherently religious activities. Neutral, non-religious criteria that neither favor nor disfavor religion must be employed in the selection of grant recipients and sub-recipients. DOL's Equal Treatment regulations are found at 29 CFR part 2, Subpart D.

**IV. Application and Submission Information**

*Address To Request Application Package*

This SGA includes all information and forms needed to apply for this funding opportunity. If additional copies of forms are needed, they can be found at *www.doleta.gov/msfw, www.doleta.gov/sga/forms.cfm*, or at the **Federal Register** Web site, *http://www.gpoaccess.gov*.

*Content and Form of Application Submission*

An application must include two (2) separate and distinct parts: Part I—a cost proposal, and Part II—a technical proposal. Applications that fail to adhere to the instructions in this section will be deemed non-responsive and will not be considered. Part I, the Cost Proposal, must include the following items:

• A cover letter, an original plus two (2) copies of the proposal, and an ink-signed original SF 424, ''Application for Federal Assistance'' must be submitted. Since October 12, 2003, all applicants for federal grant and funding opportunities are required to have a Dun and Bradstreet (DUNS) number (see OMB Notice of Final Policy Issuance, 68 FR 38402; June 27, 2003). Applicants must supply their DUNS number in item #8 of the new SF–424 issued by OMB (Rev. 10/2005). 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*. You can also call 1–866–705–5711.

• The Standard Form (SF) 424–A. In preparing the budget form, the applicant must provide a concise narrative explanation to support the request. The budget narrative should break down the budget and discuss precisely how administrative costs support the project goals.

• EEO Survey. Applicants are 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*.

Part II is the Technical Proposal, which demonstrates the applicant's capabilities to plan and implement the grant project in accordance with the provisions of this solicitation.

The Technical Proposal must be limited to 40 numbered pages, double-spaced, single-sided, in 12-point text font and one-inch margins. Any pages over the 40-page limit will not be reviewed. Letters of support and any required attachments will not be subject to the page limitations, nor will they be included in the materials provided to the panel for review of the proposal. If any attachments are included, please label each accordingly and specify the content of the attachment.

No cost data or reference to prices should be included in the Technical Proposal. Instead, applicants should provide a two-page abstract summarizing the proposed project and applicant profile information, including the applicant's name, the project title, and the funding level requested. The two-page abstract is not included in the 40 page limit. Applications that do not meet these requirements will not be considered.

*Submission Dates and Times*

The closing date for receipt of applications under this announcement is May 29, 2007. Applications must be received at the address below no later than 5:00 p.m. Eastern time on the closing date Applications may be submitted at the addresses indicated below by mail or electronically via *www.Grants.gov*. 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 honored. 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: James Stockton, Reference SGA/DFA PY 04–06, 200 Constitution Avenue, NW., Room N–4673,Washington, DC 20210. Applicants are advised that mail delivery in the Washington, DC area may be delayed due to mail decontamination procedures. Hand-delivered proposals will be received at the above address.

As mentioned earlier, applicants may also apply online at *http://www.grants.gov*. Any application received after the deadline will not be accepted. For applicants submitting electronic applications via Grants.gov, it is strongly recommended that you immediately initiate and complete the ''Get Started'' steps to register with Grants.gov at *http://www.grants.gov/GetStarted*. These steps will probably take multiple days to complete, which should be factored into plans for electronic applications submission in order to avoid facing unexpected delays that could result in the rejection of an application. Also, it is recommended that applicants experiencing problems with electronic submissions submit their proposals by overnight mail until the electronic issues are resolved.

*Late Applications*

Any application received after the closing 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 and (a) it was sent by the U.S. Postal Service registered or certified mail no 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 postmarked by the 15th of that month); or (b) it was sent via professional overnight delivery service or submitted on Grants.gov to the addressee not later than one working day prior to the date specified for receipt of applications. The term ''working days'' excludes weekends and Federal holidays. ''Postmarked'' means a printed, stamped, or otherwise placed 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.

*Intergovernmental Review*

Executive Order No. 12372, ''Intergovernmental Review of Federal Programs,'' and the implementing regulations at 29 CFR part 17 are applicable to this program. Under these requirements, an applicant must provide a copy of the funding proposal for comment to the states that have established a consultation process under the Executive Order. Applications must be submitted to the state's Single Point of Contact (SPOC), no later than the deadline for submission of the application to the Department. For states that have not established a consultative process under E.O. 12372,

but have a State Workforce Investment Board (State Board), the State Board will be the SPOC. For WIA implementation purposes, this consultative process fulfills the requirement of WIA Section 167(e) concerning consultation with Governors and Local Workforce Investment Boards (LWIB). To strengthen the implementation of E.O. 12372, the Department establishes the following timeframe for the treatment of comments from the state's SPOC on WIA Section 167 applications: (1) The SPOC must submit comments, if any, to the Department and to the applicant, no later than 30 days after the deadline date for the submission of applications; (2) the applicant's response to the SPOC comments, if any, must be submitted to the Department no later than 15 days after the postmarked date of the comments from the SPOC; (3) the Department will notify the SPOC (with copy to the applicant) of its decision regarding the SPOC comments and applicant response; and (4) the Department will implement that decision within 10 days after it has notified the SPOC.

The names and addresses of the SPOCs are listed in the Office of Management and Budget's (OMB) home page at *http://www.whitehouse.gov/omb/grants/spoc.html*.

*Funding and Other Restrictions*

Grantees are limited to 15 percent of the grant for administrative costs (see definition of administrative costs at 20 CFR part 667.220.) Administrative costs limits higher than 15 percent of the grant will not be approved.

*Indirect Cost Rate*

An indirect cost rate is required when an organization operates under more than one grant or other activity, whether Federally-assisted or not. Organizations must use the indirect cost rate supplied by the cognizant Federal agency. If an organization requires a new indirect cost rate or has a pending indirect cost rate, the Grant Officer will award a billing rate for 90 days until a provisional rate can be issued.

*Allowable Costs*

The Department shall determine what constitutes allowable costs in accordance with the following Federal cost principles, as applicable: OMB Circular A–87, State and Local Governments; OMB Circular A–21, Educational Institutions; OMB Circular A–122, Nonprofit Organizations; and 48 CFR part 31, Profit-Making Commercial Firms.

*Other Submission Requirements*

All other material required to be submitted is identified in the various sections of this solicitation.

**V. Application Review Information Criteria**

The following review criteria, totaling a maximum of 100 points, apply to all applications:

*Economic Analysis of the Area: Understanding the Problems of the Eligible Migrants and Seasonal Farmworkers in the State Service Area—15 Points*

To fully understand the problems encountered by migrants and seasonal farmworkers as they seek enhanced employment opportunities requires a full understanding and analysis of the economy in the state service area, its industries and the employment opportunities they present for farmworkers, and the outreach strategies necessary to secure those opportunities for farmworkers; i.e., building a demand driven system (as described in the priorities listed in Section I). Therefore, applicants must provide an analysis of the economy (agricultural and non-agricultural) in the geographic area they propose to serve, the employment outlook for the area, including the number of employers with whom they currently work, and a plan for outreach to and recruitment of new employers. A description of the expected job opportunities for migrants and seasonal farmworkers from these new employers, and how economic conditions and employer hiring needs affect the employment prospects of eligible migrant and seasonal farmworkers must also be provided.

This section must also include a detailed description of the state/regional labor market, both agricultural and non-agricultural, the economic conditions expected during the course of the program year, with emphasis on the specific economic challenges of regional agricultural economies, and the hiring implications those economic conditions pose for the employers in the region/area. In addition, this section must include a discussion of the industries that are declining in the service area/region as well as those industries targeted for growth and expansion that hold the potential for improved employment and earnings for farmworkers. Applicants should also discuss the strategies to be used in securing those opportunities for farmworkers.

Applicants must also describe the socio-economic characteristics and problems faced by eligible farmworkers, and their dependents, in the proposed service area/region. To do so, applicants must describe the implications that economic conditions and challenges in the region, the labor market outlook, and the analysis of potential high growth occupations hold for the workforce strategies proposed through this solicitation. Applicants should also include a ''mapping'' of the educational resources available in the area that can be assist farmworkers in accessing employment in the high-growth industries identified by the applicant. Scoring on this factor will be based on how well the applicant demonstrates its understanding of the local/regional economy and how these economic conditions help to define the challenges to be met, and the problems to overcome, in improving farmworkers' employment and earnings. Scoring will also be based on how well the proposal demonstrates the nexus between economic conditions, the characteristics of the eligible farmworkers, the educational resources, and the workforce investment needs of the population to be served. The review and evaluation of this factor will also look at the strategies developed for outreach to and recruitment of new employers that can provide improved job placement opportunities, both within and outside agriculture, for the farmworkers to be served. The proposal should clearly describe the links between the economic analysis conducted for this application and the applicant's assessment of the number of new employers to be recruited, including a description of how this will result in improved employment opportunities for farmworkers in higher-skilled, higher-paid occupations.

*Strategic Partnerships and Collaboration: Familiarity With the Proposed Service Area—25 Points*

To achieve the goal of integrating services for farmworkers through the One-Stop system and begin moving the NFJP towards the WIRED framework, and so ensure that integration assists in driving innovation and economic transformation in the requested service area, the applicant must have a clear understanding of the workforce investment and economic development services in the area, the network of social, educational, and health services available to help meet the diverse needs of the eligible farmworkers, and strategic partnerships in place to ensure the collaboration necessary to develop workforce solutions that connect farmworkers served through the

program with employment opportunities.

This section must include a description of the agencies and strategic partners in the requested service area, including faith-based and community organizations, and the applicant's experience in collaborating with these organizations in a service delivery strategy for migrant and seasonal farmworkers. It should also include a description of the services available through local service organizations, including faith-based and community organizations, and the applicant's strategy to mobilize those organizations to provide comprehensive services to farmworkers while optimizing the use of limited NFJP resources, particularly supportive or related assistance services.

If the applicant is not a state, a LWIB, or a One-Stop operator, it must describe its prior experience, if any, and demonstrated effectiveness in working with the One-Stop system in the requested service area to provide services to farmworkers. Include a description of the applicant's collaborative efforts to date to integrate services to farmworkers across all partners in the One-Stop system, and the steps to be taken to establish a significant, consistent impact on services integration.

These steps may include, but are not limited to:

- Participation in local/state activities to develop the modification to the State Strategic Plans for Title I of the WIA and the Wagner-Peyser Act for years three and four of the current five-year planning cycle;
- Participation in activities that connect workforce investment and education with economic development planning;
- Participation in activities that help the State Board or LWIB to get more agricultural employers involved in the workforce investment system;
- Setting co-enrollment targets (between the NFJP and the WIA formula funded programs) that represent a substantial increase in services to farmworkers;
- Creating better pathways to both basic and post-secondary education, specifically with community colleges;
- Entering into and implementing agreements with the State Board or the LWIBs and One-Stop operators to significantly increase outreach to farmworkers, and to significantly increase the number of One-Stop staff who are cross-trained in NFJP/adult and dislocated workers services and requirements.

Applicants must describe their experience with developing or improving existing working relationships between partners in the One-Stop system, and how that experience will be translated into improved services integration for eligible farmworkers.

If the applicant is a state, a LWIB, or a One-Stop operator, this section should include a detailed description of the efforts to date to integrate services for farmworkers through the One-Stop system, the success of those efforts, and the operational steps to be undertaken to institutionalize services integration, instead of the information requested above.

Scoring on this factor will be based how the information requested above represents evidence of the applicant's knowledge of and working relationship with the network of workforce investment and related services in the requested service area, including the One-Stop system, and the services offered by social, educational, faith-based, community, and health organizations that are available to assist farmworkers. Scoring will also be based on the applicant's effectiveness and success with causing these organizations to direct their resources towards addressing the needs of farmworkers in the requested service area in ways that maximize the availability of limited NFJP resources while increasing the services provided to farmworkers through the One-Stop and/or other service agencies.

If the applicant is a state, a LWIB or a One-Stop operator, scoring will be based on the success of efforts to integrate services to farmworkers through the One-Stop system and its partners, or the demonstrated potential for increased services to farmworkers, instead of on the factors listed above. Any success to date in enrolling and serving farmworkers in WIA formula-funded programs must be included.

*Administrative Capacity—20 Points*

Applicants must demonstrate that they have adequate and sustainable management information, performance management, case management, accounting, and program and fiscal reporting systems in place to ensure program and fiscal integrity. Because the NFJP has eligibility requirements for participation in the program, the applicant must also describe the eligibility determination and verification system in place that will allow for correct eligibility determinations and minimize enrollment of ineligible participants. Additionally, all ETA-funded job training programs, including the NFJP, are implementing a data validation initiative intended to ensure that the data collected and reported to ETA is accurate. An applicant's participant and reporting system must be able to implement data validation procedures, as described in TEGL 3–03, 3–03 change 1, and 3–03 change 2 (OMB clearance issued August 31, 2004).

Applicants must describe their systems in support of program integrity, such as management information, performance management, and program participation (including individual participant records), needed for quarterly reporting and performance accountability and management, and to establish and maintain a client-centered case management system. Applicants are reminded that the NFJP is subject to OMB's common measures for job training and employment (Entered Employment, Employment Retention, and Average Earnings, described earlier in this solicitation); therefore, the data collection and reporting system, as well as its link to performance management and accountability, must be described in detail. Fiscal integrity is a critical component of operating any federally-funded program. The applicant must describe a system that is sufficient to prepare financial reports and to trace funds to adequate levels of expenditures to ensure lawful spending. The system must have the capacity to track spending by program, to ensure that, for those organizations with funding from more than one federal program, expenditures are posted against the appropriate program. The system must also be able to track program income generated through activities funded by the NFJP funding, and show the link between program income and those additional participants and/or services funded through program income.

Applicants must also describe their capacity to manage the supportive services, also described as related assistance services, and to account for expenditures related to these services.

The NFJP is required to use electronic reporting via the Internet. Applicants must describe their capacity to provide the equipment, access, and staff qualified to perform on-line reporting. The applicant must also demonstrate its capacity to provide case management as well as the electronic tools to be utilized (Personal Computer, software, Internet access, and e-mail accounts) to implement a client-centered, case management system.

Scoring on this factor will be based on evidence of effective systems for performance accountability and management, program and fiscal

reporting, case management, eligibility determination and verification, as well as the ability to report electronically through the Internet.

*Integrated Service Delivery Strategies: Proposed Plan of Services—40 Points*

As mentioned in the priorities listed in Section I, integrated service delivery remains essential to a demand-driven workforce system that effectively serves businesses and individuals; it can significantly increase the number of farmworkers who receive quality services that lead to improved employment and earnings. Critical to this element is a strategy for balancing the mix of services and activities offered to farmworkers. A balanced mix emphasizes employment and training activities, recognizes the importance of related assistance services, and includes service delivery strategies that focus on appropriate educational approaches, such as remediation, career guidance, GED leading to apprenticeships, and other approaches appropriate to the population to be served.

Therefore, the proposed service plan should describe in detail the major program activities planned for the state service area in PY 2007, given the mix of services mentioned above. The proposal should include a description of how these program activities will support the priorities identified in Section I of this solicitation: Expansion of employment opportunities for farmworkers through specific targeting of employers and occupations in high growth industries—building a demand-driven system; and a balanced program of activities—continued progress towards enhanced integration through the One-Stop system with improved service delivery and increased efficiencies.

The proposal should describe the applicant's vision, strategy, goals and objectives that guide the proposed plan of service and the results expected from implementing the proposed plan. It should include a description of how this service plan will strengthen migrant and seasonal farmworkers' ability to obtain or retain employment, to access appropriate educational opportunities (remediation, career guidance, apprenticeships), or access employment opportunities in high-growth occupations. It should also describe any micro-enterprise or other entrepreneurial activities to be pursued, if appropriate; and activities to upgrade farmworkers' employment opportunities within agriculture, if they so choose. The services described should be directly connected to the basic and occupational skills sets needed for the talent development of farmworkers in the area's economy. The plan should provide clear evidence that the service plan expands the workforce and related services available to farmworkers due to a closer integration and specific collaboration between the NFJP service strategy and the local workforce investment service plan, new or stronger partnerships with faith-based and community organizations, and new partnerships with key entities involved in regional economic transformation, as appropriate. Applicants are strongly encouraged to include service delivery strategies that will provide farmworkers with career pathways both within and outside agricultural employment; i.e., remediation leading to post secondary education or credentialing (if appropriate); high school diplomas or GED, leading to apprenticeship opportunities, if applicable; and/or industry-accepted certifications.

Applicants should describe their strategy for providing related assistance services to farmworkers (see definition at 20 CFR 669.110). Applicants are reminded that the NFJP is intended to be a job training program, whose purpose is to assist eligible migrant and seasonal farmworkers and their families prepare for jobs that provide stable, year-round employment, both within and outside agriculture. Related assistance services include supportive services that assist eligible migrant and seasonal farmworkers to retain employment or enter into or remain in training. While no limitation is placed on the numbers of participants receiving related assistance services only, applicants are expected to describe in full how they will continue to increase the number of participants receiving employment and training services.

If the applicant is a state, a LWIB or a One-Stop operator, the application must demonstrate how the service strategy achieves integration of services by all partners in the One-Stop system, and how this integration results in enhanced and improved workforce investment services to farmworkers, within a state service area and/or regional economy.

The program plan of service section must include descriptions of:

- The state service area covered by the plan. If the proposal is for less than the entire agricultural area of the state (as could be the case in California, for example) the plan must identify the geographic area where services will be provided and an explanation supporting the geographic area selected.
- An estimate of the number of migrant and seasonal farmworker, broken out by category, to be provided training services. An estimate should be included of the number of migrant and seasonal farmworkers, broken out by category, who will be provided related assistance services only.
- The strategies for conducting participant outreach and recruitment, including the involvement, where applicable, of faith-based and community organizations in those strategies, as well as other One-Stop partner programs.
- The proposed client-centered case management system, including the staff's responsibilities for managing the system, the staff development opportunities available to enhance their skills in case management, and the capacity to increase community resources available for case management through joint alliances and/or endeavors, such as through faith-based or community organizations, or through the One-Stop system.
- The core services to be delivered, and how those services will be delivered in collaboration with the One-Stop system. Include a description of the eligibility determination system and how the applicant determines service priorities.
- The intensive services proposed, the strategy for providing them, and the collaboration with the One-Stop system in the provision of these services (see definition of intensive services at WIA Section 134(d)(3) and 20 CFR 669.370). Please note that the NFJP regulations at 20 CFR 669.380 provide that the delivery of intensive and training services should flow from an objective assessment process that includes an Individual Employment Plan. The proposal must describe the strategy for doing this, as well as the organization's capacity to appropriately address an individual's needs as identified through the objective assessment. Intensive services are described in WIA 134(d)(3)(C) and 20 CFR 669.370.
- If work experience is to be offered as an activity, the process by which the determination to use it is based, and the strategy for measuring its success as a program activity. (See 20 CFR 669.370 (b)(i) and (b)(ii)(B) for additional information on work experience activities.)
- The training services to be provided to eligible farmworkers, including the process used to determine a participant's enrollment in training services, and the process used when the determination is made not to place a participant in training. (See 20 CFR 669.410 for a description of, training services.) In addition, the proposal should describe the strategy to be used

to promote co-enrollment of participants in the WIA formula funded programs.

- The related assistance services, including supportive services, needed by migrant and seasonal farmworkers and their dependents, and the strategy for providing those services, including the agencies or organizations with whom the applicant will collaborate and/or coordinate these services. The proposal should provide separate descriptions for those farmworkers receiving supportive services and also intensive and/or training services, and those farmworkers for whom related assistance services will be the only services provided. It should also include a description of the process used to determine the need for related assistance services, the differences in the determination process, if any, among migrant and seasonal farmworker groups, and the rationale for the differences.
- The proposal should describe the applicant's strategy for balancing related assistance services with the need to increase employment and training services.
- The proposal should describe the educational approaches to be used, including remediation, GED attainment, GED leading to apprenticeships, career guidance and other pathways leading to credentialing or post secondary opportunities, if applicable, to assist the participant in obtaining the occupational skills that lead to employment in high-growth occupations or to higher paying employment within the agricultural industry.
- A description of the strategies to be used to achieve performance results with respect to job placement, employment retention, and average earnings (i.e., the common measures).
- A description of the strategies to address how job placement opportunities will be pursued among the employers in the service area, including how job placement opportunities from new employers will be secured, as well as opportunities in high growth industries/occupations.
- The process by which the applicant will conduct follow-up services for those who are placed in jobs or engaged in entrepreneurial activities.

Scoring on this factor will be based on evidence that the applicant has used the information provided in the first three rating criteria, described above, to develop a service strategy and a plan of service that leads to measurable impact on improving the employment and earnings of farmworkers. It will also be based on evidence that the plan of service contains a balanced program of activities, and a rationale for the proposed services, as well as evidence that the service plan encompasses resources and program activities available from other One-Stop partners and/or the local services agencies, including faith-based and community organizations.

The evaluation of this factor will also assess whether the service strategy and service plan presented by the applicant reflect a knowledge of the local workforce investment plan and proposes services that complement that plan in a way that increases employment opportunities for farmworkers.

If the applicant is a state, a LWIB or a One-Stop operator, the evaluation of this factor will also assess opportunities for integrating services through the One-Stop system and its partner programs to improve the workforce and related services received by farmworkers. Special emphasis will be placed on the success achieved in enrolling and serving farmworkers through WIA formula-funded programs.

*Review and Selection Process*

A review panel will rate each proposal according to the criteria scoring factors specified in this solicitation. Panel reviews are critical to the selection of grantees but are advisory in nature, and their recommendations are not binding on the Grant Officer. The Grant Officer, in selecting potential grantees, may consider any information that comes to his or her attention, including past performance under a previous grant and information from the program office, and will make the final selection determination based on what best meets the needs of eligible migrants and seasonal farmworkers in the area to be served. The Grant Officer may consider factors such as panel findings, geographic presence of the applicants, proposed areas to be served, and other pertinent factors.

The Grant Officer's determination for award under this SGA is final. The Grant Officer may elect to make awards either with or without discussions and negotiations with the applicant. In situations without discussions, an award will be based on the applicant's signature on the SF–424, which constitutes a binding offer.

Applications rated by the review panel with a score of less than 80 points will not be recommended for an award. In areas where there are no applications with a score of 80 or above, the process for selecting another potential grantee, described in Section II, will be implemented.

## VI. Award Administration Information

*Award Notices*

The Grant Officer will notify applicants, in writing, if they are selected as potential grantees. The notification will invite each potential grantee to negotiate the final terms and conditions of the grant as applicable, will establish a reasonable time and place for the negotiations, and will indicate the specific state service area and amount of funds to be allocated under the grant. FY 2007 funds will be awarded for the period July 1, 2007 to June 30, 2008.

An applicant that is not selected as a potential grantee or whose application has been denied in part or in whole by the Department will be notified in writing by the Grant Officer and advised of all appeal rights. The notification will outline the deficiencies as noted by the review panel and offer an opportunity for a debriefing. The written notification by the Grant Officer constitutes a final decision, for the purposes of 20 CFR 667.800.

*Administrative and National Policy Requirements*

There are no additional administrative or national policy requirements.

*Reporting*

An applicant's proposal becomes the annual grant plan after a grant award is made, with additional information as appropriate and requested by the funding agency. WIA Section 167 grantees will be required to submit reports on financial expenditures, program participation, and participant outcomes on a quarterly basis. Grantees will also have to submit planned financial expenditures and planned program participation forms at the beginning of the program year. Grantees must report electronically, but may be asked to submit reports in paper form on occasion. As reflected earlier in this solicitation, this program is subject to the common measures of performance. Grantees will be required to provide the data necessary to collect information for reporting performance results against the common measures.

## VII. Agency Contacts

Questions related to this solicitation may be directed to Ms. Mamie Williams, Grants Management Specialist, phone 202–693–3341; fax: 202–693–2879 (this is not a toll free number). Please include a contact name, fax and telephone number.

This announcement is also being made available on the ETA Web site at

*http://doleta.gov/sga/sga.cfm* and *http://www.grants.gov.*

Signed at Washington, DC this 16th day of April, 2007.

**James W. Stockton,**

*Grant Officer.*

[FR Doc. E7–7497 Filed 4–19–07; 8:45 am]

**BILLING CODE 4510–FN–P**

## FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

### Arts And Artifacts Indemnity Panel Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 716, from 9 a.m. to 5 p.m., on Monday, May 7, 2007.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 2007.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemption (4) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the committee.

It is suggested that those desiring more specific information contact Acting Advisory Committee Management Officer, Heather Gottry, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202–606–8322.

**Heather Gottry,**

*Acting Advisory Committee Management Officer.*

[FR Doc. E7–7526 Filed 4–19–07; 8:45 am]

**BILLING CODE 7536–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

### National Council On the Humanities; Meeting

April 18, 2007.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC, on May 8–9, 2007.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on May 8–9, 2007, will not be open to the public pursuant to subsections (c)(4),(c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on May 8, 2007 will be as follows:

**Committee Meetings**

*(Open to the Public)*

Policy Discussion

9–10:30 a.m.
- Challenge Grants and Education Programs—Room 415
- Federal/State Partnership—Room 510A
- Preservation and Access—Room M–07
- Public Programs—Room 421
- Research Programs—Room 315

*(Closed to the Public)*

Discussion of Specific Grant Applications and Programs Before the Council

10:30 a.m. until Adjourned
- Challenge Grants and Adjourned Education Programs—Room 415
- Federal/State Partnership—Room 510A
- Preservation and Access—Room M–07
- Public Programs—Room 421
- Research Programs—Room 315

2–3 p.m.
- Jefferson Lecture—Room 527

The agenda for the session on May 9, 2007 will be as follows: The morning session will convene at 9 a.m. in Room M–09, and will be open to the public, as set out below.

A. Minutes of the Previous Meeting
B. Reports
1. Introductory Remarks
2. Staff Report
3. Congressional Report
4. Reports on Policy and General Matters
a. Challenge Grants
b. Education Programs
c. Federal/State Partnership
d. Preservation and Access
e. Public Programs
f. Research Programs
g. Jefferson Lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Ms. Heather Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

**Heather Gottry,**

*Acting Advisory Committee Management Officer.*

[FR Doc. E7–7529 Filed 4–19–07; 8:45 am]

**BILLING CODE 7536–01–P**

## NATIONAL SCIENCE FOUNDATION

### Interagency Arctic Research Policy Committee; Notice of Meeting

In accordance with the Arctic Research and Policy Act (Pub. L. 101–609, as amended), the National Science Foundation announces the following meeting:

*Name:* Interagency Arctic Research Policy Committee.

*Date:* April 27, 2007, 10 a.m. to 12 p.m.

*Place:* National Science Foundation, 4201 Wilson Boulevard, Room 1295, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:** Fae Korsmo, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292–8030.

Dated: April 17, 2007.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. E7–7501 Filed 4–19–07; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* NRC Form 314, Certificate of Disposition of Materials.

3. *The form number if applicable:* NRC Form 314.

4. *How often the collection is required:* this form is submitted once, when a licensee terminates its license.

5. *Who is required or asked to report:* Persons holding an NRC license for the possession and use of radioactive byproduct, source, or special nuclear material who are ceasing licensed activities and terminating the license.

6. *An estimate of the number of responses:* 171.

7. *The estimated number of annual respondents:* 171.

8. *The number of hours needed annually to complete the requirement or request:* 85.5.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* NRC Form 314 furnishes information to NRC regarding transfer or other disposition of radioactive material by licensees who wish to terminate their licenses. The information is used by NRC as part of the basis for its determination that the facility has been cleared of radioactive material before the facility is released for unrestricted use.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 21, 2007. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. OMB Desk Officer, Office of Information and Regulatory Affairs (3150–0028), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Margaret A. Janney, 301–415–7245.

Dated at Rockville, Maryland, this 13th day of April 2007.

For the Nuclear Regulatory Commission.

**Margaret A. Janney,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. E7–7530 Filed 4–19–07; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Forms 540 and 540A, ''Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page;'' NRC Forms 541 and 541A, ''Uniform Low-Level Radioactive Waste Manifest, Container and Waste Description, and Continuation Page;'' NRC Forms 542 and 542A, ''Uniform Low-Level Radioactive Waste Manifest, Index and Regional Compact Tabulation, and Continuation Page.''

3. *The form number if applicable:* NRC Forms 540 and 540A; NRC Forms 541 and 541A; and NRC Forms 542 and 542A.

4. *How often the collection is required:* Forms are used by shippers whenever radioactive waste is shipped. Quarterly or less frequent reporting is made to NRC depending on specific license conditions.

5. *Who will be required or asked to report:* All NRC-licensed low-level waste facilities. All generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility must complete the appropriate forms.

6. *An estimate of the number of annual responses:*

NRC Form 540 and 540A: 13,400 licensees.

NRC Form 541 and 541A: 13,400 licensees.

NRC Form 542 and 542A: 756 licensees.

7. *The estimated number of annual respondents:*

NRC Form 540 and 540A: 2,500 licensees.

NRC Form 541 and 541A: 2,500 licensees.

NRC Form 542 and 542A: 22 licensees.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:*

NRC Form 540 and 540A: 10,050 (.75 hours per response).

NRC Form 541 and 541A: 44,341 (3.3 hours per response).

NRC Form 542 and 542A: 567 (.75 hours per response).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* NRC Forms 540, 541, and 542, together with their continuation pages, designated by the ''A'' suffix, provide a set of standardized forms to meet Department of Transportation (DOT), NRC, and State requirements. The forms were developed by NRC at the request of low-level waste industry groups. The forms

provide uniformity and efficiency in the collection of information contained in manifests which are required to control transfers of low-level radioactive waste intended for disposal at a land disposal facility. NRC Form 540 contains information needed to satisfy DOT shipping paper requirements in 49 CFR Part 172 and the waste tracking requirements of NRC in 10 CFR Part 20. NRC Form 541 contains information needed by disposal site facilities to safely dispose of low-level waste and information to meet NRC and State requirements regulating these activities. NRC Form 542, completed by waste collectors or processors, contains information which facilitates tracking the identity of the waste generator. That tracking becomes more complicated when the waste forms, dimensions, or packagings are changed by the waste processor. Each container of waste shipped from a waste processor may contain waste from several different generators. The information provided on NRC Form 542 permits the States and Compacts to know the original generators of low-level waste, as authorized by the Low-Level Radioactive Waste Policy Amendments Act of 1985, so they can ensure that waste is disposed of in the appropriate Compact.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 21, 2007. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Margaret Malanoski, OMB Desk Officer, Office of Information and Regulatory Affairs (3150–0164, –0166, & –0165), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Margaret_A._Malanoski@omb.eop.gov* or submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Margaret A. Janney, 301–415–7245.

Dated at Rockville, Maryland, this 13th day of April 2007.

For the Nuclear Regulatory Commission.

**Margaret A. Janney,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. E7–7533 Filed 4–19–07; 8:45 am]

**BILLING CODE 7590–01–P**

## PEACE CORPS

### Information Collection Requests Under OMB Review

**AGENCY:** Peace Corps.

**ACTION:** Notice of public use form review request to the Office of Management and Budget.

**SUMMARY:** The Director for Coverdell World Wise Schools invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 USC Chapter 35). This notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the use of the PC–DP–969.3 (04/2007), World Wise Schools Conference Online Registration Form. A copy of the information collection may be obtained from Sally Caldwell, Director of World Wise Schools, Peace Corps, Office of Domestic Programs, 1111 20th Street, NW., Washington, DC 20256. Ms. Caldwell may be contacted by telephone at 202–692–1425. The Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps and the Paul D. Coverdell World Wise Schools' Annual Conference, including whether the information will have practical use; 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; 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 those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of technology. Comments on the form should also be addressed to the attention of Ms. Sally Caldwell, and should be received on or before June 19, 2007.

**Information Collection Abstract**

*Title:* World Wise Schools Conference—Online Registration Form.

*Need for and Use of this Information:* The Peace Corps and Paul D. Coverdell World Wise Schools need this information to officially register attendees to the annual World Wise Schools Conference. The information is used a s record of attendees.

*Respondents:* Educators, and employees of governmental and nongovernmental organizations interested in promoting global education in the classroom.

*Respondents' Obligation to Reply:* Voluntary.

*Burden on the Public:*

a. *Annual reporting burden:* 50 hours.

b. *Annual record keeping burden:* 50 hours.

c. *Estimated average burden per response:* 10 minutes.

d. *Frequency of response:* Annually.

e. *Estimated number of likely respondents:* 300.

f. *Estimated cost to respondents:* $0.00/$0.00.

Dated: April 10, 2007.

**Wilbert Bryant,**

*Associate Director for Management.*

[FR Doc. 07–1972 Filed 4–19–07; 8:45am]

**BILLING CODE 6051–01–M**

## PEACE CORPS

### Information Collection Requests Under OMB Review

**AGENCY:** Peace Corps.

**ACTION:** Notice of public use form review request to the Office of Management and Budget.

**SUMMARY:** The Director for Coverdell World Wise Schools invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the use of the PC–DP–969.4 (04/2007), Speakers Match: Request for a Speaker (Online). A copy of the information collection may be obtained from Sally Caldwell, Director of World Wise Schools, Peace Corps, Office of Domestic Programs, 1111 20th Street, NW., Washington, DC 20526. Ms. Caldwell may be contacted by telephone at 202–692–1425. The Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps and the Paul D. Coverdell World Wise Schools' Speakers Match program, including whether the information will have practical use; 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; 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 those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of technology. Comments on the form should be addressed to the attention of Ms. Sally Caldwell, and should be received on or before June 19, 2007.

**Information Collection Abstract**

*Title:* Speakers Match: Request for a Speaker—PC–DP–969.4 (04/2007) (Online).

*Need for and Use of This Information:* The Peace Corps and Paul D. Coverdell World Wise Schools need this information officially to make suitable matches between the educators and returned Peace Corps Volunteers for the Speakers Match program.

*Respondents:* Educators interested in promoting global education in the classroom.

*Respondents' Obligation to Reply:* Voluntary.

*Burden on the Public:*

a. *Annual reporting burden:* 1667 hours.

b. *Annual record keeping burden:* 250 hours.

c. *Estimated average burden per response:* 10 minutes.

d. *Frequency of response:* Annually.

e. *Estimated number of likely respondents:* 10,000.

f. *Estimated cost to respondents:* $0.00/$0.00.

Dated: April 10, 2007.

**Wilbert Bryant,**

*Associate Director for Management.*

[FR Doc. 07–1973 Filed 4–19–07; 8:45 am]

**BILLING CODE 6051–01–M**

## PEACE CORPS

### Information Collection Request Under OMB Review

**AGENCY:** Peace Corps.

**ACTION:** Notice of public use form review request to the Office of Management and Budget (OMB).

**SUMMARY:** Pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Peace Corps has submitted to the Office of Management and Budget a request for Re-instatement for approval of information collections, OMB Control Number 0420–0006, the Peace Corps (PC–1532), Confidential Reference Form (Rev. 10/2006). The purpose of this notice is to solicit public comments on whether: (1) The proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether the information will have a practical use; (2) the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used is accurate; (3) there are ways to enhance the quality, utility and clarity of the information to be collected; and (4) there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

A copy of the proposed information collection form can be obtained from Cathey Bernhard, Office of Volunteer Recruitment and Selection, Peace Corps, 1111 20th Street, NW., Room 6416, Washington, DC 20526. Ms. Bernhard can be contacted by telephone at 202–692–1884 or 800–424–8580 ext. 1884 or e-mail at *cbernhard@peacecorps.gov*. Comments on the forms should be addressed to the attention of Ms. Bernhard and should be received on or before June 19, 2007 from publication in the **Federal Register**.

*Title:* Confidential Reference Form.

*Need and Uses:* The Confidential Reference form must be completed by references—names of whom are supplied by potential volunteers.

*Type of Review:* Re-instatement of a previously approved collection that expired on 12/31/05.

*Respondents:* Family, Friends and current and former supervisors of applicants for service in the United States Peace Corps.

*Respondent's Obligation to Reply:* The responses are voluntary at the request of the applicant.

*Burden to the Public:*

a. *Annual reporting burden:* 16,5000 hours.

b. *Annual recordkeeping burden:* None.

c. *Estimated average burden per response:* 30 minutes.

d. *Frequency of response:* One time.

e. *Estimated number of likely respondents:* 33,000.

f. *Estimated cost to respondent:* none.

This notice issued in Washington, DC, on April 11, 2007.

**Wilbert Bryant,**

*Associated Director for Management.*

[FR Doc. 07–1974 Filed 4–19–07; 8:45 am]

**BILLING CODE 6051–01–M**

## PEACE CORPS

### Information Collection Requests Under OMB Review

**AGENCY:** Peace Corps.

**ACTION:** Notice of public use form review request to the Office of Management and Budget.

**SUMMARY:** The Director for Coverdell World Wise Schools invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice announces that Coverdell World Wise Schools has submitted to the Office of Management and Budget a request to approve the use of the PC–DP–969.5 (04/2007), Correspondence Match Educator Online Enrollment Form: Educator Sign Up Form. A copy of the information collection may be obtained from Sally Caldwell, Director of World Wise Schools, Peace Corps, Office of Domestic Programs, 1111 20th Street, NW., Washington, DC 20256. Ms. Caldwell may be contacted by telephone at 202–692–1425. Coverdell World Wise Schools invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps' Coverdell World Wise Schools' Correspondence Match program, including whether the information will have practical use; 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; ways to enhance the quality, utility, and clarify of the information to be collected; and ways to minimize the burden of the collection of information to on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of technology. Comments on the form should be addressed to the attention of Ms. Sally Caldwell, Director of World Wise Schools, Peace Corps, Office of Domestic Programs, 1111 20th Street, NW., Washington, DC 20256, and should be received on or before June 19, 2007.

**Information Collection Abstract**

*Title:* Correspondence Match Educator Online Enrollment Form.

*Need for and Use of This Information:* The Peace Corps and Paul D. Coverdell World Wise Schools need this information officially to enroll educators in the Correspondence Match program. The information is used to make suitable matches between the educators and currently serving Peace Corps Volunteers.

*Respondents:* Educators interested in promoting global education in the classroom.

*Respondents' Obligation to Reply:* Voluntary.

*Burden on The Public:*

a. *Annual reporting burden:* 1667 hours.

b. *Annual record keeping burden:* 250 hours.

c. *Estimated average burden per response:* 10 minutes.

d. *Frequency of response:* Annually.

e. *Estimated number of likely respondents:* 10,000.

f. *Estimated cost to respondents:* $0.00/$0.00.

This notice is issued in Washington, DC on, April 10, 2007.

**Wilbert Bryant,**

*Associate Director for Management.*

[FR Doc. 07–1975 Filed 4–19–07; 8:45 am]

**BILLING CODE 6051–01–M**

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review, Request for Comments

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) to request a revision to the following collection of information: 3220–0030, Application for Survivor Insurance Annuities, consisting of RRB Form(s) AA–17, Application for Widow(er)'s Annuity, AA–17b, Application for Determination of Widow(er)'s Disability, AA–17cert, Application Summary and Certification, AA–18, Application for Mother's/Father's and Childs Annuity, AA–19, Application for Child's Annuity, AA–19a, Application for Determination of Child's Disability, and AA–20, Application for Parent's Annuity. Our ICR describes the information we seek to collect from the public. Completion is required to obtain or retain benefits. One response is required of each respondent. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) The practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

*Previous Requests for Comments:* The RRB has already published the initial 60-day notice (72 FR 4543 on January 31, 2007) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

**Information Collection Request (ICR)**

*Title:* Application for Survivor Insurance Annuities.

*OMB Control Number:* 3220–0030.

*Form(s) submitted:* AA–17, AA–17b, AA–17cert, AA–18, AA–19, AA–19a, AA–20.

*Type of request:* Revision of a currently approved collection.

*Affected public:* Individuals or households.

*Abstract:* Under Section 2(d) of the Railroad Retirement Act, monthly survivor annuities are payable to surviving widow(er)s, parents, unmarried children, and in certain cases, divorced wives (husband), mothers (fathers), remarried widow(er)s and grandchildren of deceased railroad employees. The collection obtains information needed by the RRB for determining entitlement to and amount of the annuity applied for.

*Changes Proposed:* The RRB proposes minor, non-burden impacting, editorial changes to all of the forms in the collection.

*The burden estimate for the ICR is as follows:*

*Estimated annual number of respondents:* 4,137.

*Total annual responses:* 4,137.

*Total annual reporting hours:* 1,718.

*Additional Information or Comments:* Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Charles Mierzwa,**

*Clearance Officer.*

[FR Doc. E7–7557 Filed 4–19–07; 8:45 am]

**BILLING CODE 7905–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[OMB Control No. 3235–; SEC File No.— 270–577]**

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From*: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

**XBRL Voluntary Program Questionnaire**

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit the proposed collection of information, the XBRL Voluntary Program Questionnaire, to the Office of Management and Budget for approval.

The XBRL Voluntary Program Questionnaire consists mainly of questions based on the respondent's experience with submitting eXtensible Business Reporting Language (''XBRL'') tagged data to the Commission on a voluntary basis as a supplemental exhibit to specified filings under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

The Commission needs the information to learn about the voluntary program from the participant perspective. Responses to the questionnaire are voluntary and will be publicly available. The Commission plans to use the information to help it assess the feasibility and desirability of using tagged data on a more widespread and, possibly, mandated, basis in the future. In addition, the information may also be used by the Commission or its staff in connection with public analyses of the responses. The likely respondents to the questionnaire are the participants in the voluntary program.

We estimate that 80 respondents will take 4 hours per response for a total reporting burden of 320 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: April 12, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7488 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

*Extension:*

Rule 17a–12; SEC File No. 270–442; OMB Control No. 3235–0498.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

**• Rule17a–12, Reports To Be Made by Certain OTC Derivatives Dealers**

Rule17a–12 (17 CFR 240.17a–12) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) requires OTC derivatives dealers to file quarterly Financial and Operational Combined Uniform Single Reports (''FOCUS'' reports) on Part IIB of Form X–17A–5,[1] the basic document for reporting the financial and operational condition of OTC derivatives dealers. Rule 17a–12 also requires that OTC derivatives dealers file audited financial statements annually. The reports required under Rule 17a–12 provide the Commission with information used to monitor the operations of OTC derivatives dealers and to enforce their compliance with the Commission's rules. These reports also enable the Commission to review the business activities of OTC derivatives dealers and to anticipate, where possible, how these dealers may be affected by significant economic events.

The staff estimates that that the average amount of time necessary to prepare and file the information required by Rule 17a–12 is 180 hours per OTC derivatives dealer annually: an average of twenty hours preparing each of four quarterly reports and an additional 100 hours for the annual audit. Five entities are presently registered as OTC derivatives dealers and the staff does not expect that any additional OTC derivatives dealers will become registered within the next three years. Thus the total burden is estimated to be 900 hours annually (180 times 5 equals 900).

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *David_Rostker@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7490 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

*Extension:*

Rule 23c–3 and Form N–23c–3; SEC File No. 270–373; OMB Control No. 3235–0422.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350 *et. seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension and approval of the collections of information discussed below.

Rule 23c–3 (17 CFR 270.23c–3) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) is entitled: ''Repurchase of Securities of Closed-End Companies.'' The rule permits certain closed-end investment companies (''closed-end funds'' or ''funds'') periodically to offer to repurchase from shareholders a limited number of shares at net asset value. The rule includes several reporting and recordkeeping requirements. The fund must send shareholders a notification that contains specified information each time the fund makes a repurchase offer (on a quarterly, semi-annual, or annual basis, or for certain funds, on a discretionary basis not more often than every two years). The fund also must file copies of the shareholder notification with the Commission (electronically through the Commission's Electronic Data Gathering, Analysis, and Retrieval System (''EDGAR'')) attached to Form N–23c–3 (17 CFR 274.221), a cover sheet that provides limited information about the fund and the type of offer the fund is making.[1] The fund must describe in its annual report to shareholders the fund's policy concerning repurchase offers and the results of any repurchase offers made during the reporting period. The fund's board of directors must adopt written procedures designed to ensure that the fund's investment portfolio is sufficiently liquid to meet its repurchase obligations and other obligations under the rule. The board periodically must review the composition of the fund's portfolio and change the liquidity procedures as necessary. The fund also must file copies of advertisements and other sales literature with the Commission as if it were an open-end investment company subject to section 24 of the Investment Company Act (15 U.S.C. 80a–24) and the rules that implement section 24.[2]

The requirement that the fund send a notification to shareholders of each offer is intended to ensure that a fund provides material information to shareholders about the terms of each offer, which may differ from previous

[1] Form X–17A–5 (17 CFR 249.617).

[1] Form N–23c–3 requires the fund to state its registration number, its full name and address, the date of the accompanying shareholder notification, and the type of offer being made (periodic, discretionary, or both).

[2] Rule 24b–3 under the Investment Company Act (17 CFR 270.24b–3), however, would generally exempt the fund from that requirement when the materials are filed instead with the NASD, as nearly always occurs under NASD procedures, which apply to the underwriter of every fund.

offers on such matters as the maximum amount of shares to be repurchased (the maximum repurchase amount may range from 5% to 25% of outstanding shares). The requirement that copies be sent to the Commission is intended to enable the Commission to monitor the fund's compliance with the notification requirement. The requirement that the shareholder notification be attached to Form N–23c–3 is intended to ensure that the fund provides basic information necessary for the Commission to process the notification and to monitor the fund's use of repurchase offers. The requirement that the fund describe its current policy on repurchase offers and the results of recent offers in the annual shareholder report is intended to provide shareholders current information about the fund's repurchase policies and its recent experience. The requirement that the board approve and review written procedures designed to maintain portfolio liquidity is intended to ensure that the fund has enough cash or liquid securities to meet its repurchase obligations, and that written procedures are available for review by shareholders and examination by the Commission. The requirement that the fund file advertisements and sales literature as if it were an open-end investment company is intended to facilitate the review of these materials by the Commission or the NASD to prevent incomplete, inaccurate, or misleading disclosure about the special characteristics of a closed-end fund that makes periodic repurchase offers.

Compliance with the collection of information requirements of the rule and form is mandatory only for those funds that rely on the rule in order to repurchase shares of the fund. The information provided to the Commission on Form N–23c–3 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The Commission staff estimates that approximately 34 funds make use of rule 23c–3, and that on average a fund spends approximately 126 hours annually in complying with the requirements of the rule and Form N–23c–3. The Commission staff therefore estimates the total annual burden of the rule's and form's paperwork requirements to be 4284 hours.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or email to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7491 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

*Extension:*

Rule 19b–4(e) and Form 19b–4(e); SEC File No. 270–447; OMB Control No. 3235–0504.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below. The Code of Federal Regulation citation to this collection of information is 17 CFR 240.19b–4(e) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) (the ''Act'').

Rule 19b–4(e) permits a self-regulatory organization (''SRO'') to immediately list and trade a new derivative securities product so long as such product is in compliance with the criteria of Rule 19b–4(e) under the Act. However, in order for the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e), it is necessary that the SRO maintain, on-site, a copy of Form 19b–4(e) under the Act. Rule 19b–4(e) requires SROs to file a summary form, Form 19b–4(e), and thereby notify the Commission, within five business days after the commencement of trading a new derivative securities product. In addition, the Commission reviews SRO compliance with Rule 19b–4(e) through its routine inspections of the SROs.

The collection of information is designed to allow the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e).

The respondents to the collection of information are self-regulatory organizations (as defined by the Act), including national securities exchanges and national securities associations.

Fourteen respondents file an average total of 50 responses per year, which corresponds to an estimated annual response burden of 50 hours. At an average cost per burden hour of $239.50, the resultant total related cost of compliance for these respondents is $11,975 per year (50 burden hours multiplied by $239.50/hour = $11,975).

Compliance with Rule 19b–4(e) is mandatory. Information received in response to Rule 19b–4(e) shall not be kept confidential; the information collected is public information.

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

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7495 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55632; File No. SR–Amex–2006–112]**

## Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Units of the United States Natural Gas Fund, LP

April 13, 2007.

### I. Introduction

On December 1, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to list and trade units (a ''Unit'' or collectively, the ''Units'') of the United States Natural Gas Fund, LP (''USNG'') pursuant to Amex Rules 1500 *et seq.* On February 14, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on March 7, 2007 for a 15-day comment period.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

### II. Description of the Proposal

The Exchange proposes to list and trade the Units issued by USNG pursuant to Amex Rules 1500 *et seq.* The Units represent ownership of a fractional undivided beneficial interest in the net assets of USNG.[4] The net assets of USNG will consist of investments in futures contracts based on natural gas, crude oil, heating oil, gasoline, and other petroleum-based fuels traded on the New York Mercantile Exchange (''NYMEX''), Intercontinental Exchange (''ICE Futures'') or other U.S. and foreign exchanges (collectively, ''Futures Contracts''). USNG may also invest in other natural gas-related investments such as cash-settled options on Futures Contracts, forward contracts for natural gas, and over-the-counter transactions that are based on the price of natural gas, oil and other petroleum-based fuels, Futures Contracts and indices based on the foregoing (collectively, ''Other Natural Gas Related Investments''). Futures Contracts and Other Natural Gas Related Investments collectively are referred to as ''Natural Gas Interests.''

USNG will invest in Natural Gas Interests to the fullest extent possible without being leveraged or unable to satisfy its current or potential margin or collateral obligations. In pursuing this objective, the primary focus of USNG's investment manager, Victoria Bay Asset Management, LLC (''General Partner''), will be the investment in Futures Contracts and the management of its investments in short-term obligations of the United States, cash equivalents, and cash for margining purposes and as collateral.

The investment objective of USNG is for changes in percentage terms of a Unit's net asset value (''NAV'') to reflect the changes in percentage terms of the price of natural gas delivered at the Henry Hub, Louisiana as measured by the natural gas futures contract traded on the NYMEX (the ''Benchmark Futures Contract''). The Benchmark Futures Contract employed is the near month expiration contract, except when the near month contract is within two (2) weeks of expiration, in which case the Benchmark Futures Contract is the next expiration month.[5]

The General Partner will attempt to place USNG's trades in Natural Gas Interests and otherwise manage USNG's investments so that ''A'' will be within plus/minus 10 percent of ''B,'' where:

- A is the average daily change in USNG's NAV for any period of 30 successive valuation days, *i.e.*, any day as of which USNG calculates its NAV; and
- B is the average daily change in the price of the Benchmark Futures Contract over the same period.

USNG will be subject to the criteria in Amex Rule 1502 for initial and continued listing of the Units. The Amex stated that it will require a minimum of 100,000 Units to be outstanding at the start of trading and expects that the initial price of a Unit will be $50.00.[6] The Exchange represented that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.[7] Further, the Exchange stated that it will file a proposed rule change with the Commission pursuant to Rule 19b–4 under the Act seeking approval to continue trading the Units and, unless approved, the Exchange will commence delisting the Units if more than a temporary disruption exists in connection with the pricing of the Benchmark Futures Contract or the calculation or dissemination of the NAV is more than temporarily disrupted, or the NAV is not disseminated to all market participants at the same time.

Amex Rule 1503 relating to certain specialist prohibitions will address potential conflicts of interest in connection with acting as a specialist in the Units. Specifically, Rule 1503 provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Units so that the specialist or affiliated person may not act or function as a market-maker in an underlying asset, related futures contract or option or any other related derivative. An affiliated person of the specialist consistent with Amex Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Units on another market center, in the underlying asset, related futures or options or any other related derivative. In particular, Amex Rule 1503 provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Units on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Amex Rule 1504 will also ensure that specialists handling the Units provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon or any other derivative. As a general matter, the Exchange has regulatory jurisdiction over its members, member organizations and approved persons of a member organization. The Exchange also has regulatory jurisdiction over any person or entity controlling a member organization as well as a subsidiary or affiliate of a member organization that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55372 (February 28, 2007), 72 FR 10267.

[4] USNG is a commodity pool that will issue Units that may be purchased and sold on the Exchange.

[5] The Benchmark Futures Contracts will be changed or ''rolled'' from the near month contract to expire over to the next month to expire over a four (4) day period.

[6] USNG expects that the initial Authorized Purchaser will purchase the initial Basket of 100,000 Units at the initial offering price per Unit of $50.00. On the date of the public offering and thereafter, USNG will continuously issue Units in Baskets of 100,000 Units to Authorized Purchasers at NAV.

[7] *See* 17 CFR 240.10A–3.

or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

### III. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [8] and, in particular, the requirements of Section 6 of the Act.[9] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[11] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transaction in securities. Amex represented that quotation for and last-sale information regarding the futures contracts held by USNG, including the future contracts underlying the Benchmark Index are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represented that real-time futures data is available by subscription from Reuters and Bloomberg. The NAV of the Units is available at the Web site of the Exchange. The Commission believes that Amex's proposal is reasonable designed to promote transparency in the pricing of the Units, and to prevent trading when a reasonable degree of transparency cannot be assured. The proposal also appears reasonably designed to prevent the misuse of information by specialists.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange represented that it currently has in place an Information Sharing Agreement with the NYMEX and ICE Futures for the purpose of providing information in connection with trading in or related to futures contracts traded on the NYMEX and ICE Futures, respectively. To the extent that USNG invests in Natural Gas Interests traded on other exchanges, the Amex represented that it will seek to enter into Information Sharing arrangements with those particular exchanges.

(2) Amex would distribute an information circular to Exchange members and member organizations, prior to the commencement of trading providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transaction in the Units. In addition, investors purchasing Units directly from USNG (by delivery of the Deposit Amount) would receive a prospectus from USNG. Amex members purchasing Units from USNG for resale to investors would deliver a prospectus to such investors.

(3) Amex submits that its surveillance procedures are adequate to deter and detect violations of Exchange rules relating to the trading of the Units. The surveillance procedures for the Units will be similar to those used for units of the United States Oil Fund, LP as well as other commodity-based trusts, trust issued receipts and exchange-traded funds. In addition, the surveillance procedures will incorporate and rely upon existing Amex surveillance procedures governing options and equities.

(4) Amex represents that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.[12]

This order is conditioned on Amex's adherence to these representations.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Amex–2006–112), as modified by Amendment No. 1, be, and is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7486 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[12] *See* 17 CFR 240.10A–3.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55636; File No. SR–Amex–2007–32]**

## Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Shorten the Minimum Required Time Periods Required Between Tape Indications and Openings or Reopenings

April 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Amex. The Exchange has filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amex Rules regarding openings and halts in trading to shorten the minimum time periods required between tape indications and openings or reopenings. The Exchange has designated this proposal as non-controversial and has requested that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b–4(f)(6)(iii) under the Act.[5]

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* the Office of the Secretary, the Amex and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Specialists in equity-traded securities [6] are responsible for ensuring that their specialty securities open for trading as close to the opening bell as possible, and reopen for trading after a trading halt as soon as possible. After a trading halt, the specialist must strive to open or reopen a security in a manner that is not only timely, but is also fair and orderly.

Ordinarily, before the opening bell, the specialist will assess existing market conditions and consider the balance of supply and demand for a security as reflected by orders represented in the market. Under certain conditions, he or she may provide this information to the market in the form of price indications that are published on the consolidated tape. In the event of a delayed opening, or the reopening of trading in a security after a trading halt, the specialist may be required to assess market conditions prior to the delayed opening or reopening, and publish a price indication to the market accordingly, while providing market participants with sufficient time to react and participate as they deem appropriate.

Current rules require minimum time periods as long as ten minutes between a specialist's dissemination of a price indication and the delayed opening or reopening of trading. Technological developments have increased the speed of communication since these rules were introduced, and market conditions may change substantially within the time periods now required between the indication and the opening or resumption of trading. Accordingly, the Exchange is proposing an amendment to the rules to provide flexibility to react quickly, when appropriate, by reducing the minimum amount of time required between indications and delayed openings or reopenings after a trading halt.

Amex Rule 119–AEMI (governing indications, openings and reopenings) currently provides that the specialist may not open or reopen a stock that has been the subject of a halt or delayed opening until ten minutes have elapsed following the first indication. Where there is more than one indication, a minimum of five minutes must elapse from the last indication, provided that at least ten minutes has elapsed since the first indication. The Exchange proposes that these minimum time periods be shortened from ten minutes to three minutes after the first indication, and from three minutes to one minute after the last indication, provided that a minimum of three minutes have elapsed since the first indication.

For a stock that is halted during the trading day, current rules require a minimum of five minutes between the first indication and the stock's reopening. Where there is more than one indication, a minimum of three minutes must elapse from the last indication, provided that at least five minutes have elapsed after the first indication. The Exchange proposes that these time periods be shortened from five minutes to three minutes after the first indication, and from three minutes to one minute after the last indication, provided that a minimum of three minutes has elapsed after the dissemination of the first indication.

If a stock is halted during the trading day due to an ''equipment changeover,'' a minimum of five minutes must elapse following the halt before trading resumes. Should a significant order imbalance develop [7] or a regulatory condition occur (*i.e.*, news pending or news dissemination), current rules require a ten minute minimum halt period following the first indication before reopening for trading. The Exchange now proposes that the standard five minute period after an ''equipment changeover'' be shortened to one minute and the ten minute period be shortened to three minutes after an ''equipment changeover'' during which a significant order imbalance or regulatory condition develops.

The Exchange further proposes amendments to Exchange Rule 118–AEMI, Trading in Nasdaq Securities, to conform the minimum time periods required for openings and reopenings in securities traded on the Amex on an unlisted trading privileges basis to those proposed for listed securities. Additionally, the Exchange proposes a housekeeping change where references to a ''Floor Governor'' in Rule 119–AEMI would be changed to ''Senior Floor Official'' reflecting that the authority granted to a Floor Governor can be exercised by a Senior Floor Official.[8]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [9] of the Act in general and furthers the objectives of Section 6(b)(5) [10] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change will impose no burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder [12] because the proposal: (i) Does not significantly affect the protection of

[6] Equity-traded securities include stocks (both listed and those trading on an Unlisted Trading Privileges Basis), Exchange Traded Funds, and other securities that trade like equities. *See* Amex Rule 1A–AEMI(c).

[7] A ''significant order imbalance'' is one which would result in a reopening at a price change constituting the greater of 1% or two points away from the last previous sale in a stock selling at $20 or more, one point or more away from the last previous sale in a stock selling at $10 or more (but less than $20), and one/half point or more away from the last previous sale in a stock selling at less than $10. *See* Amex Rule 119–AEMI(3)(a).

[8] The Commission approved an amendment to Amex Rule 21 which provides that: ''An Exchange Official who has been appointed as a Senior Floor Official has the same authority and responsibilities as a Floor Governor with respect to matters that arise on the Floor and require review or action by a Floor Governor or Senior Floor Official.'' *See* Securities Exchange Act Release 51503 (April 7, 2005), 70 FR 19534 (April 13, 2005) (SR–Amex–2004–65).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay.[14] The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed changes to the required minimum time periods between tape indications and openings and reopenings are substantially similar to a recently approved proposal submitted by the New York Stock Exchange LLC (''NYSE'').[15] For this reason, the Commission designates the proposed rule change to be operative on April 2, 2007, as the Exchange proposed.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2007–32 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–32. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–32 and should be submitted on or before May 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E7–7553 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *Id.*

[15] The Commission recently approved a substantially similar proposal from the NYSE that included identical changes to the required minimum time periods between tape indications and openings and reopenings. *See* Securities Exchange Act Release No. 54530 (September 28, 2006), 71 FR 58645 (October 3, 2006) (SR–NYSE–2006–49).

[16] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55639; File No. SR–BSE–2007–15]**

## Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Existing BeX Fee Schedule

April 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 2, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The BSE has designated this proposal as one changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend the Boston Equities Exchange (''BeX'') fee schedule to provide for a credit in the amount of $0.0027 to which Liquidity Providers would be entitled. The text of the proposed rule change is available at *http://www.bostonstock.com*, at the BSE, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On November 20, 2006, the BSE filed File No. SR–BSE–2006–44, a rule filing that amended the existing BSE fee schedule and established a fee schedule for the BeX, a facility of the Exchange. The purpose of this filing is to amend certain transaction fees set forth in the BeX fee schedule.

The BeX fee schedule presently provides for credits to Liquidity Providers, which credits vary depending upon whether the issues are considered Listed Issues or Nasdaq Issues as well as whether the trades are for a share price that is greater than or equal to $1.00 or less than $1.00. At the present time, Liquidity Providers in Listed Issues involving trades with a share price greater than or equal to $1.00 are entitled to a $0.0023 credit per share; Liquidity Providers in Nasdaq Issues involving trades with a share price greater than or equal to $1.00 are entitled to a credit of $0.0025 per share; Liquidity Providers in Listed Issues involving trades with a share price that is less than $1.00 are entitled to a credit of $0.0023 per share with a maximum of 0.3% of the quotation price per share; and Liquidity Providers in Nasdaq Issues involving trades with a share price that is less than $1.00 are entitled to a credit of $0.0025 per share with a maximum of 0.3% of the quotation price per share.

The purpose of this proposed amendment to the BeX fee schedule is to standardize the credits to which Liquidity Providers are entitled by making the rate per share credit to which Liquidity Providers are entitled $0.0027 for providing liquidity in all issues, that is, Listed Issues and Nasdaq Issues, irrespective of the price at which the shares traded (subject to a maximum of 0.3% of the quotation price per share for Listed Issues and Nasdaq Issues priced below $1.00).[5] This amendment to the BeX fee schedule will not only standardize the credits to which Liquidity Providers are entitled, but attract those Liquidity Providers to BeX by providing competitive credits for providing liquidity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act,[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using Exchange facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2) thereunder,[9] because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BSE–2007–15 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2007–15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2007–15 and should be submitted on or before May 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E7–7552 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[5] Telephone conversation between Brian Donnelly, Assistant Vice President, Regulation and Compliance, BSE, and Ira Brandriss, Special Counsel, Division of Market Regulation, Commission, April 16, 2007.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55629; File No. SR–CBOE–2007–34]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Subsidy Arrangements with Members That Provide or Use Certain Order Routing Functionalities

April 13, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 5, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by CBOE. CBOE designated this proposal as one establishing or changing a due, fee, or other charge applicable only to its members pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to enter into subsidy arrangements with CBOE members that provide certain order routing functionalities to other CBOE members and/or use such functionalities themselves. This rule change does not provide for any modifications to the text of CBOE's rules. The proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change*

1. Purpose

CBOE proposes to enter into subsidy arrangements with CBOE members that provide certain order routing functionalities to other CBOE members and/or use such functionalities themselves.[5] To qualify for the subsidy arrangement, a member's order routing functionality would have to: enable the electronic routing of orders to all of the U.S. options exchanges, including CBOE; provide current consolidated market data from the U.S. options exchanges; and be capable of interfacing with CBOE's API to access current CBOE trade engine functionality. The routing system would also need to cause CBOE to be the default destination exchange for individually executed marketable orders if CBOE is at the national best bid or offer (''NBBO''), regardless of size or time, but allow any user to manually override CBOE as the default destination on an order-by-order basis. The order routing functionality would be required to incorporate a function allowing orders at a specified price to be sent to multiple exchanges with a single click (a ''sweep function'') and the sweep function would need to be configured to cause an order to be sent to CBOE for up to the full size quoted by CBOE if CBOE is at the NBBO.[6] Any CBOE member would be permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and satisfies CBOE that it appears to be robust and reliable. The member would be solely responsible for implementing and operating its system.

CBOE is proposing to make payments to participating CBOE members to subsidize their costs of providing the routing services. The payment would be $0.05 per contract for orders routed to CBOE through a participating member's system. The participating member would have to agree that it would not be entitled to receive any other revenue for the use of its system specifically with respect to orders routed to CBOE.[7]

A participating CBOE member could also elect to have CBOE perform certain additional marketing services on its behalf. These services would consist of including the member's functionality in the general marketing activities of CBOE's marketing staff. CBOE would permit a member electing to have CBOE perform these services place CBOE's ''HyTS'' trademark on its order routing functionality in a manner satisfactory to CBOE. If a member elects to have CBOE perform these services, the amount that CBOE pays the member for orders routed to CBOE through the participating member's system would be reduced from $0.05 per contract to $0.04 per contract. The minimum term of these services would be one year, after which a member could terminate the marketing services effective at the end of a calendar month.

A participating CBOE member could also elect to have CBOE perform the service of billing other CBOE members with respect to the use of the participating CBOE member's router. A participating member that elects to have CBOE perform this service would pay CBOE a service fee of one percent of the fees collected by CBOE for that member. A member could terminate this service at the end of any calendar month.

Nothing about the subsidy arrangement would relieve any CBOE member that is using an order routing functionality provided by another member or its own functionality from complying with its best execution obligations. Specifically, just as with any customer order and any other routing functionality, a member would have an obligation to consider the availability of price improvement at various markets and whether routing a customer order through a functionality that incorporates the features described

[1] 15 U.S.C 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(6).

[5] CBOE might in the future submit to the Commission a proposed rule change to include arrangements with third party vendors that are not CBOE members.

[6] For example, if a CBOE member were to enter an order to buy 250 contracts using the sweep function at a time when CBOE is at the NBBO for 100 contracts, the sweep function would need to be configured to send an order for 100 contracts to CBOE, with the balance of the order routed as specified by the member entering the order from the configurations offered by the routing functionality.

Nothing would require that a person using the routing functionality actually use the sweep function, and, in this same example, if the CBOE member wished to route the entire order for 250 contracts to an exchange other than CBOE using the routing functionality, it would be free to manually override CBOE as the default destination for the entire order.

[7] This requirement would not prevent the participating member from charging fees (for example, a flat monthly fee) for the general use of its order routing system. Nor would it prevent the participating member from charging fees or commissions in accordance with its general practices with respect to transactions effected through its system.

above would allow for access to such opportunities if readily available. Moreover, a member would need to conduct best execution evaluations on a regular basis, at a minimum quarterly, that include its use of any router incorporating the features described above.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [8] in general and furthers the objectives of Section 6(b)(4) of the Act [9] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange neither solicited nor received comments on the proposal.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(2) [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–34 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–34. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–34 and should be submitted on or before May 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7493 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55630; File No. SR–CBOE–2007–21]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List for Trading Options on Commodity Pool Units

April 13, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 [2] thereunder, notice is hereby given that on February 22, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On March 26, 2007, CBOE filed Amendment No. 1 to the proposed rule change.[3] This order provides notice of the proposed rule change as modified by Amendment No. 1 and approves the proposed rule change on an accelerated basis.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend CBOE Rules 4.18 Interpretation and Policy .01, 5.3 Interpretation and Policy .06, 5.4 Interpretation and Policy .08, 8.9, and 15.1 Interpretation and Policy .04 to permit the listing and trading of options on securities issued by Trust Issued Receipts (''TIRs''), partnership units (''Partnership Units''), and other entities whose value is based on underlying commodity interests (referred to collectively herein as ''Commodity Pool Units'').

The text of the proposed rule change is available at the CBOE, the Commission's Public Reference Room, and *http://www.cboe.com*.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change. The text of these

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces and supersedes the original filing in its entirety.

statements may be examined at the places specified in Item III below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The CBOE states that the proposed rule change is based on a proposal by the American Stock Exchange LLC (''Amex'').[4]

The purpose of this proposed rule change is to enable the listing and trading on the Exchange of options on Commodity Pool Units that trade, directly or indirectly, in commodity futures products. Commodity Pool Units may hold or trade in one or more types of investments that may include any combination of securities, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts. The shares of the Commodity Pool Units are securities registered with the Commission and the offer and sale of those shares are subject to the Commission's regulatory oversight. The investments held, directly or indirectly, within the Commodity Pool Units are subject to the Commodity Exchange Act (''CEA'') due to their status as a ''commodity pool.'' [5] Therefore, the trading of the assets and/or investment (*e.g.*, futures and options on futures) held within the Commodity Pool Units is regulated by the Commodity Futures Trading Commission (''CFTC'').[6]

Currently, CBOE Rule 5.3 Interpretation and Policy .06 provides that securities deemed appropriate for options trading shall include shares or other securities (''Units'') that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a NMS security, and that (i) Represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities comprising or otherwise based on or representing investments in indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities); or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust.

The Exchange proposes to amend Interpretation and Policy .06 to its Rule 5.3 to expand the type of options to include the listing and trading of options based on Commodity Pool Units that may hold or invest, directly or indirectly, in commodity futures products, including, but not limited to, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts. As part of this revision to Rule 5.3 Interpretation and Policy .06, the Exchange proposes to add paragraph (ii)(F) requiring for Commodity Pool Units that a comprehensive surveillance sharing agreement be in place with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool Units are listed and traded.

As set forth in the proposed amendment to Interpretation and Policy .06 to CBOE Rule 5.3, Commodity Pool Units must be traded on a national securities exchange or through the facilities of a national securities association and must be an ''NMS stock'' as defined under Rule 600 of Regulation NMS. In addition, Commodity Pool Units must meet either (i) the criteria and guidelines under CBOE Rule 5.3 and Interpretation and Policy .01; or (ii) be available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other issuer in cash or in kind at a price related to net asset value. In addition, the issuing trust, investment company, commodity pools or other issuer is obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuing trust, investment company, commodity pool or other issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of Units which underlie the option as described in the Units' prospectus.

Under the applicable continued listing criteria in Interpretation and Policy .08 to CBOE Rule 5.4, the Exchange shall not open for trading any additional series of option contracts on Units that were initially approved for options trading pursuant to Interpretation and Policy .06 to Rule 5.3 if such Units either (i) Cease to be an ''NMS stock'' as provided in paragraph (f) of Interpretation and Policy .01 of Rule 5.4 (an ''NMS stock'' is defined in Rule 600 of Regulation NMS of the Act); or (ii) are halted from trading in their primary market.

In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering Units in the following circumstances: (1) Following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange or through the facilities of a national securities association and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; or (2) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities on which the Units are based is no longer calculated or available. In addition, the Exchange is proposing to amend Rule 5.4 Interpretation and Policy .08, by adding

[4] *See* Securities Exchange Act Release No. 55547 (March 28, 2007), 72 FR 16388 (April 4, 2007) (SR–Amex–2006–110) (approving listing criteria covering options on securities issued by entities holding commodity derivatives). CBOE's proposed rule text includes a definition of ''Partnership Units'' that parallels the definition in Amex's rules. *See* Interpretation and Policy .10 to CBOE Rule 5.4. CBOE notes that, although the proposed definition of ''Partnership Units'' includes a broad universe of securities, including those of entities that invest in physical commodities. The current filing, like the Amex proposal, proposes to list and trade options only on Commodity Pool Units that invest in a combination of commodity derivative products, and not in physical commodities.

[5] The term ''[commodity] pool means any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests.'' 17 CFR 4.10(d)(1). A commodity interest is ''(1) Any contract for the purchase or sale of a commodity for future delivery; and (2) Any contract, agreement or transaction subject to Commission regulation under Section 4c or 19 of the [Commodity Exchange] Act.'' 17 CFR 4.10(a).

[6] The manager or operator of a ''commodity pool'' is required to register, unless applicable exclusions apply, as a commodity pool operator (''CPO'') and as a commodity trading advisor (''CTA'') with the CFTC and become a member of the National Futures Association (''NFA'').

new paragraph (d), which provides the Exchange with the ability to determine that it will not open additional series of options on Units if such events occur or conditions exist that in the opinion of the Exchange make further dealing in such options on the Exchange inadvisable. The Exchange notes that this proposed paragraph is based on a parallel provision in Commentary .07(4) to Amex Rule 916.

The Exchange is also proposing to amend Interpretation and Policy .01 to its Rule 4.18 to require members to establish, maintain and enforce written policies and procedures to prevent the misuse of material, nonpublic information it might have or receive in a related security, option or derivative or in the applicable related commodity, commodity futures or options on commodity futures or any other related commodity derivatives.

The Exchange is further proposing to amend CBOE Rule 8.9 to require that Market-Makers for options in Commodity Pool Units file with the Exchange upon request a list identifying all accounts for, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in which the Market-Maker may have directly or indirectly engaged in trading activities or over which he exercises investment discretion.[7] In addition, the proposed revision to Rule 8.9 further requires that no Market-Maker shall engage in trading in, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in an account which has not been reported in a manner prescribed by the Exchange.[8]

In addition, the Exchange proposes to amend Interpretation and Policy .04 to CBOE Rule 15.1 to require Market-Makers to make available to the Exchange such books and records or other information pertaining to transactions in the applicable physical commodity, physical commodity options, commodity futures contracts, options on commodity futures contracts, or any other derivatives on such commodity, as may be requested by the Exchange.

The Exchange represents that it has an adequate surveillance program in place for options based on Commodity Pool Units. The Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance-sharing agreements with various commodity futures exchanges worldwide. Prior to listing and trading options on Commodity Pool Units, the Exchange represents that it would either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the primary exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded.

The addition of Commodity Pool Units would not have any effect on the rules pertaining to position and exercise limits.[9] The Exchange also represents that the margin requirements for options on Commodity Pools Units would be evaluated for each product the Exchange anticipates listing. Any new margin rules deemed necessary will be filed separately with the Commission.

This proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool Units that the Commission has approved for trading, including the DB Commodity Index Tracking Fund (the ''DBC Fund''), the United States Oil Fund, L.P. (the ''Oil Fund'') and the PowerCommodity Pool ETFs DB G10 Currency Harvest Fund (the ''DBV Fund'').[10]

The DBC Fund is a Commodity TIR[11] and tracks the performance of the Deutsche Bank Liquid Commodity Index™—Excess Return while the Oil Fund is a Partnership Unit and tracks the spot price of West Texas Intermediate light, sweet crude oil delivered to Cushing, Oklahoma.

The DBC Fund is a ''feeder fund'' that invests substantially all of its assets in the DB Commodity Index Tracking Master Fund, and the Master Fund in turn maintains a portfolio of exchange-traded futures on aluminum, gold, corn, wheat, heating oil and light, sweet crude oil. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

The DBV Fund is also a Commodity TIR[12] and a ''feeder fund'' that invests substantially all of its assets in the PowerCommodity Pool ETFs DB G10 Currency Harvest Master Fund, and the Master Fund in turn maintains a portfolio of exchange-traded futures on foreign currencies that comprise the G–10 countries. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

Unlike the DBC and DBV Funds, the Oil Fund[13] does not invest through a master-feeder structure but rather trades directly in futures on crude and heating oil, natural gas, gasoline and other petroleum-based fuels, options on such futures contracts, forward contracts on oil and other over-the-counter derivatives based on the price of oil, other petroleum-based fuels, the futures contracts described above, and the indexes based on any of the foregoing. The Oil Fund's portfolio is managed by Victoria Bay Asset Management LLC with the aim of tracking the West Texas Intermediate light, sweet crude oil futures contract listed and traded on the New York Mercantile Exchange (''NYMEX'').

The Exchange believes that it is reasonable to expect that other types of Commodity Pool Units will be introduced for trading in the near future. The proposed amendment to the Exchange's listing criteria for options on Commodity TIRs and Partnership Units is necessary to ensure that the Exchange will be able to list options on Commodity Pool Units that have been recently launched as well as any other similar Commodity Pool Units that may be listed and traded in the future.

[7] The Exchange is proposing to add the phrase ''for options on'' in two places in the first sentence of CBOE Rule 8.9(a) to clarify that Rule 8.9(a) governs Market-Makers in options on Units (versus Market-Markets in the Unit underlying the option).

[8] The Exchange is proposing to add the phrase ''trading in'' to the last sentence of CBOE Rule 8.9(a) to clarify the conduct governed by the rule.

[9] *See* CBOE Rules 4.11 and 4.12.

[10] *See* Securities Exchange Act Release Nos. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (approving the listing and trading of the DB Commodity Index Tracking Fund); 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (approving the listing and trading of Units of the United States Oil Fund, L.P.); and 54450 (September 14, 2006), 71 FR 51245 (September 21, 2006) (approving the listing and trading of the PowerShares DB G10 Currency Harvest Fund).

[11] The offering of DBC Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form 10–Q was filed with the Commission on November 14, 2006.

[12] The offering of DBV Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form 10–Q was filed with the Commission on November 14, 2006.

[13] The offering of Oil Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form S–1 was filed with the Commission on January 19, 2007.

2. Statutory Basis

The Exchange believes that, with the commencement of trading of Commodity Pool Units on the Exchange, amending its rules to accommodate the listing and trading of options on publicly traded shares of other securities that hold and/or manage portfolios or baskets of commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities, options on non-U.S. currency, and/or securities will benefit investors by providing them with the same valuable risk management tool that is currently available with respect to other publicly traded Units (or Exchange Traded Funds) whose investment assets consist of securities. Accordingly, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(5),[15] of the Act in particular, in that it would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2007–21 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–21 and should be submitted on or before May 11, 2007.

**IV. Commission Findings and Accelerated Approval**

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [16] and, in particular, the requirements of Section 6 of the Act.[17] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

*Surveillance*

The Commission notes that Exchange has represented that it has an adequate surveillance program in place for options based on Commodity Pool Units. The Exchange may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance sharing agreements with various commodity futures exchanges worldwide. Prior to listing and trading options on Commodity Pool Units, the Exchange represented that it will either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded. In addition, the Exchange represented that the addition of Commodity Pool Unit options will not have any effect on the rules pertaining to position and exercise limits [19] or margin.

*Listing and Trading of Options on Commodity Pool Units*

The Commission notes that, pursuant to the proposed rule change, a Commodity Pool Unit will be subject to the provisions of CBOE Rules 5.3 and 5.4, and the Interpretation and Policy thereto, as applicable. These provisions include requirements regarding initial and continued listing standards, the creation/redemption process for Commodity Pool Units, and trading halts. All Commodity Pool Units must be traded through a national securities exchange or through the facilities of a national securities association, and must be ''NMS stock'' as defined under Rule 600 of Regulation NMS.[20]

The Commission believes that this proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool Units currently approved for trading and that it is reasonable to expect other types of Commodity Pool Units to be introduced for trading in the future. This proposal would help ensure that the Exchange will be able to list options on Commodity Pool Units that have been recently launched as well as any other similar Commodity Pool Units that may be listed and traded in the future [21] thereby offering investors greater option choices.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(5).

[19] *See* CBOE Rules 4.11 and 4.12.

[20] 17 CFR 242.600(b)(47).

[21] 17 CFR 240.19b–4(e).

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[22] for approving the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the proposal is consistent with the Exchange's listing and trading standards in CBOE Rules 5.3 and 5.4, and the Commission has recently approved a similar proposal, after publishing it for a full comment period and receiving no comments.[23] Therefore, the Commission does not believe that the proposed rule change, as amended, raises novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from the flexibility afforded by trading these products without delay.

Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[24] to approve the proposal, as amended, on an accelerated basis.

## V. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–CBOE–2007–21), as modified by Amendment No. 1, be, and is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7494 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55637; File No. SR–CBOE–2007–35]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Class Quoting Limit in Several Option Classes

April 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 10, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the CBOE. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to increase the class quoting limit in several option classes. The text of the proposed rule change is available on CBOE's Web site (*http://www.cboe.com*), at the CBOE's Office of the Secretary, and at the Commission's public reference room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

CBOE Rule 8.3A, Maximum Number of Market Participants Quoting Electronically per Product, establishes class quoting limits (''CQLs'') for each class traded on the Hybrid Trading System.[5] A CQL is the maximum number of quoters that may quote electronically in a given product and the current levels are established from 25–40, depending on the trading activity of the particular product.

Rule 8.3A, Interpretation .01(c) provides a procedure by which the President of the Exchange may increase the CQL for a particular product. In this regard, the President of the Exchange may increase the CQL in exceptional circumstances, which are defined in the rule as ''substantial trading volume, whether actual or expected.'' [6] The effect of an increase in the CQL is procompetitive in that it increases the number of market participants that may quote electronically in a product. The purpose of this filing is to increase the CQL in the following option classes as described below:

| Option class | Current CQL | New CQL |
|---|---|---|
| American Home Mortgage Investment Corp. (AHM) | 25 | 30 |
| Dendreon Corporation (DNDN) | 25 | 40 |
| Imergent Inc. (IIG) | 25 | 30 |
| Accredited Home Lenders Holding (LEND) | 35 | 45 |
| Novastar Financial, Inc. (NFI) | 30 | 40 |
| Neurochem, Inc. (NRMX) | 25 | 35 |

The trading volume in these option classes recently has increased substantially. Increasing the CQL in these classes will enable the Exchange to enhance the liquidity offered, thereby offering deeper and more liquid markets.

2. Statutory Basis

Accordingly, CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any

[22] 15 U.S.C. 78s(b)(2).

[23] *See* Securities Exchange Act Release No. 55547 (March 28, 2007), 72 FR 16388 (April 4, 2007) (SR–Amex–2006–110).

[24] 15 U.S.C. 78s(b)(5).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] *See* Rule 8.3A.01.

[6] ''Any actions taken by the President of the Exchange pursuant to this paragraph will be submitted to the SEC in a rule filing pursuant to Section 19(b)(3)(A) of the Exchange Act.'' Rule 8.3A.01(c).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither received nor solicited written comments on the proposal.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act [9] and Rule 19b–4(f)(1) thereunder,[10] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–35 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–35. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–35 and should be submitted on or before May 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E7–7554 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55625; File No. SR–CHX–2007–08]**

## Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Expand Its Price Manipulation Rule To Address Additional Instances of Improper Behavior

April 12, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 21, 2007, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its rule relating to price manipulation to address two separate instances of improper activity: (1) Manipulative conduct consisting of a single event (in addition to a series of events, as the current rule contemplates) and (2) manipulation based upon the entry of orders as opposed to that based solely upon the entry of trades. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.chx.com/rules/proposed_rules.htm*.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

Through this proposal, the Exchange seeks to amend its rule relating to price manipulation to address two separate instances of improper activity: (1) Manipulative conduct consisting of a single event (in addition to a series of events, as the current rule contemplates) and (2) manipulation based upon the entry of orders as opposed to that based solely upon the entry of trades.[3]

As an initial matter, the Exchange believes that these changes to the rule would appropriately establish that improper price manipulation could occur, in certain circumstances, when orders are entered at successively higher or lower prices, not just upon the execution of a series of trades at successively higher or lower prices. Order-based manipulation, sometimes called spoofing, may be intended to take advantage of algorithms or electronic traders who focus on changes to the bid or offer in trading. In such situations,

[3] The proposal would also expand the rule to address conduct by persons associated with a participant firm, in addition to the firm's partners, directors, officers and registered employees.

the bad actor may enter higher, non-marketable bids (offers) in one market center in order to induce market participants to lift an offer (hit a bid) which he has posted in the same or different market center.[4]

Additionally, the Exchange believes that the proposed changes to the rule would appropriately establish that improper price manipulation could occur, in certain circumstances, when a single execution occurs (or a single order is entered) at a price higher than (or lower than) the current market. A single trade that is executed at a significantly higher or lower price at the end of the trading day, for example, could be used to establish a price which does not reflect the true state of the market in that security, to the benefit of a participant firm.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[5] in general, and Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by expanding the price manipulation rule to address additional instances of improper behavior.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange did not solicit or receive any written comments with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2007–08 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2007–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2007–08 and should be submitted on or before May 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7492 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[4] Other order-based manipulative activity might occur with the upcoming implementation of the new market data revenue allocation formula under Regulation NMS—which, in general, requires that market data revenue be allocated based upon both quoting and trading activity in each market. The entry of orders (which are designed not be executed) could be used to create a false, misleading, or artificial appearance of quoting activity in a particular security within a particular market.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55635; File No. SR–ISE–2007–16]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Options Based on Commodity Pool ETFs

April 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on February 21, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On March 26, 2007, ISE filed Amendment No. 1 to the proposed rule change.[3] This order provides notice of the proposed rule change as modified by Amendment No. 1 and approves the proposed rule change on an accelerated basis.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend certain rules to permit the listing and trading of options on equity interests issued by trust issued receipts (''TIRs''), partnership units (''Partnership Units''),[4] and other entities (referred collectively herein as ''Commodity Pool

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces and supersedes the original filing in its entirety.

[4] As set forth in ISE Rule 2127, a ''Partnership Unit'' means a security (a) that is issued by a partnership that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities and/or securities; and (b) that is issued and redeemed daily in specified aggregate amounts at net asset value.

ETFs'') that hold or invest in commodity futures products.[5]

The text of the proposed rule change is available at the ISE, the Commission's Public Reference Room, and *http://www.iseoptions.com.*

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The proposed rule change is to enable the listing and trading on the Exchange of options on interests in Commodity Pool ETFs that trade directly or indirectly commodity futures products. As a result, Commodity Pool ETFs are subject to the Commodity Exchange Act (the ''CEA'') due to their status as a commodity pool,[6] and therefore, regulated by the Commodity Futures Trading Commission (''CFTC'').[7] Commodity Pool ETFs may hold or trade in one or more types of investments that may include any combination of securities, commodity futures contracts, options on commodity futures contracts, swaps, and forward contracts.

Currently, ISE Rule 502(h) provides securities deemed appropriate for options trading shall include shares or other securities (''Fund Shares'') that (i) Represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that are traded on a national securities exchange or through the facilities of a national securities association and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS, and that hold portfolios of securities comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities) or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust (''Funds'').

The Exchange proposes to amend its Rule 502(h) to expand the type of options to include the listing and trading of options based on shares of Commodity Pool ETFs (the ''Shares'') that may hold or invest directly or indirectly in commodity futures products, including but not limited to, commodity futures contracts, options on commodity futures contracts, swaps, and forward contracts. As part of this revision, the Exchange proposes to add paragraph (h)(6) to ISE Rule 502(h) requiring that, for Commodity Pool ETFs, a comprehensive surveillance sharing agreement be in place with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool ETFs are listed and traded.

As set forth in proposed ISE Rule 502(h), Commodity Pool ETFs must be traded on a national securities exchange or through the facilities of a national securities association and must be an ''NMS stock'' as defined under Rule 600 of Regulation NMS. In addition, shares of Commodity Pool ETFs must meet either: (i) The criteria and guidelines under ISE Rule 502(b); or (ii) be available for creation or redemption each business day in cash or in kind from the commodity pool, trust or similar entity at a price related to net asset value. In addition, the commodity pool, trust or other similar entity shall provide that shares may be created even though some or all of the securities needed to be deposited have not been received by the commodity pool, trust or other similar entity, provided the authorized creation participant has undertaken to deliver the shares as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the commodity pool, trust or other similar entity which underlies the option as described in the prospectus.

Under the applicable continued listing criteria in ISE Rule 503(h), the Fund Shares approved for options trading will not be deemed to meet the requirements for continued approval, and the Exchange will not open for trading any additional series of options contracts of the class covering such Fund Shares in any of the following circumstances: (i) Following the initial twelve-month period beginning upon the commencement of trading of the Fund Shares, there are fewer than 50 record and/or beneficial holders of the Fund Shares for 30 or more consecutive trading days; (ii) the value of the index, non-U.S. currency, portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities, or portfolio of securities on which the Fund Shares are based is no longer calculated or available; or (iii) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable. Additionally, the Fund Shares shall not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Fund Shares, if the Fund Shares are halted from trading on their primary market or if the Fund Shares are delisted in accordance with the terms of ISE Rule 503 or the value of the index or portfolio on which the Fund Shares are based is no longer calculated or available.

The Exchange is also proposing to amend ISE Rule 408 to require members to establish, maintain and enforce written policies and procedures to prevent the misuse of material nonpublic information it might have or receive in a related security, option or derivative or in the applicable related commodity, commodity futures or options on commodity futures or any other related commodity derivatives. The Exchange is further proposing to amend ISE Rule 1400 to ensure that the Primary Market Maker handling the Fund Shares provide the Exchange with

[5] The proposal parallels one submitted by the American Stock Exchange LLC (''Amex'') and recently approved by the Commission. *See* Securities Exchange Act Release No. 55547 (March 28, 2007), 72 FR 16388 (April 4, 2007) (SR–Amex–2006–110).

[6] A ''commodity pool'' is defined in CFTC Regulation 4.10(d)(1) as any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests. CFTC regulations further provide that a ''commodity interest'' means a commodity futures contract and any contract, agreement or transaction subject to Commission regulation under Section 4c or 19 of the Act. *See* CFTC Regulation 4.10(a).

[7] The manager or operator of a ''commodity pool'' is required to register, unless applicable exclusions apply, as a commodity pool operator (CPO) and commodity trading advisor (CTA) with the CFTC and become a member of the National Futures Association (''NFA'').

all necessary information relating to their trading in the applicable physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity. The Exchange is also proposing to amend Rule 807 to prohibit a Primary Market Maker engaging in physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity from trading in an account which has not been reported to the Exchange.

The Exchange represents that it has an adequate surveillance program in place for options based on Commodity Pool ETFs. The Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance sharing agreements with various commodity futures exchanges worldwide. Prior to listing and trading options on Commodity Pool ETFs, the Exchange represents that it will either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded.

The addition of Commodity Pool ETF options will not have any effect on the rules pertaining to position and exercise limits [8] or margin.[9]

This proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool ETFs currently approved for trading. The Exchange notes that The DB Commodity Index Tracking Fund (the ''DBC Fund''), the United States Oil Fund, L.P. (the ''Oil Fund'') and the PowerShares DB G10 Currency Harvest Fund (the ''DBV Fund'') are listed and traded on the Amex.[10] The DBC Fund is a Commodity TIR and tracks the performance of the Deutsche Bank Liquid Commodity Index™—Excess Return while the Oil Fund is a Partnership Unit and tracks the spot price of West Texas Intermediate light, sweet crude oil delivered to Cushing, Oklahoma.

The DBC Fund is a ''feeder fund'' that invests substantially all of its assets in the DB Commodity Index Tracking Master Fund, and the Master Fund in turn maintains a portfolio of exchange-traded futures on aluminum, gold, corn, wheat, heating oil and light, sweet crude oil. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

The DBV Fund is a ''feeder fund'' that invests substantially all of its assets in the PowerShares DB G10 Currency Harvest Master Fund, and the Master Fund in turn maintains a portfolio of exchange-traded futures on foreign currencies that comprise the G–10 countries. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

Unlike the DBC and DBV Funds, the Oil Fund does not invest through a master-feeder structure but rather trades directly in futures on crude and heating oil, natural gas, gasoline and other petroleum-based fuels, options on such futures contracts, forward contracts on oil and other over-the-counter derivatives based on the price of oil, other petroleum-based fuels, the futures contracts described above, and the indexes based on any of the foregoing. The Oil Fund's portfolio is managed by Victoria Bay Asset Management LLC with the aim of tracking the West Texas Intermediate light, sweet crude oil futures contract listed and traded on the New York Mercantile Exchange (''NYMEX'').

The ISE believes that it is reasonable to expect other types of Commodity Pool ETFs to be introduced for trading in the near future. The proposed amendment to the Exchange's listing criteria for options on Commodity TIRs and Partnership Units is necessary to ensure that the Exchange will be able to list options on Commodity Pool ETFs that have been recently launched as well as any other similar Commodity Pool ETFs that may be listed and traded in the future.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5),[12] of the Act in particular, in that it would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2007–16 on the subject line.

*Paper comments:*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[8] *See* ISE Rules 412 and 414.

[9] *See* ISE Rule 1202.

[10] *See* Securities Exchange Act Release Nos. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (approving the listing and trading of the DB Commodity Index Tracking Fund); 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (approving the listing and trading of Units of the United States Oil Fund, L.P.); and 54450 (September 14, 2006), 71 FR 51245 (September 21, 2006) (approving the listing and trading of the PowerShares DB G10 Currency Harvest Fund).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–16 and should be submitted on or before May 11, 2007.

**IV. Commission Findings and Accelerated Approval**

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [13] and, in particular, the requirements of Section 6 of the Act.[14] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

**Surveillance**

The Commission notes that Exchange has represented that it has an adequate surveillance program in place for options based on Commodity Pool ETFs. The Exchange may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance sharing agreements with various commodity futures exchanges worldwide. Prior to listing and trading options on Commodity Pool ETFs, the Exchange represented that it will either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded. In addition, the Exchange represented that the addition of Commodity Pool ETF options will not have any effect on the rules pertaining to position and exercise limits [16] or margin.[17]

*Listing and Trading of Options on Commodity Pool ETFs*

The Commission notes that, pursuant to the proposed rule change, a Commodity Pool ETF will be subject to the provisions of ISE Rules 502 and 503, as applicable. These provisions include requirements regarding initial and continued listing standards, the creation/redemption process for Commodity Pool ETFs, and trading halts. All Commodity Pool ETFs must be traded through a national securities exchange or through the facilities of a national securities association, and must be ''NMS stock'' as defined under Rule 600 of Regulation NMS. [18]

The Commission believes that this proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool ETFs currently approved for trading and that it is reasonable to expect other types of Commodity Pool ETFs to be introduced for trading in the future. This proposal would help ensure that the Exchange will be able to list options on Commodity Pool ETFs that have been recently launched as well as any other similar Commodity Pool ETFs that may be listed and traded in the future [19] thereby offering investors greater option choices.

**Acceleration**

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[20] for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the proposal is consistent with the Exchange's listing and trading standards in ISE Rules 502 and 503, and the Commission has recently approved a similar proposal, after publishing it for comment and receiving no comments.[21] Therefore, the Commission does not believe that the proposed rule change, as amended, raises novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from the flexibility afforded by trading these products as soon as possible.

Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[22] to approve the proposal, as amended, on an accelerated basis.

**V. Conclusion**

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–ISE–2007–16), as modified by Amendment No. 1, be, and is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7489 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[13] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(5).

[16] *See* ISE Rules 412 and 414.

[17] *See* ISE Rule 1202.

[18] 17 CFR 242.600(b)(47).

[19] 17 CFR 240.19b–4(e).

[20] 15 U.S.C. 78s(b)(2).

[21] *See* Securities Exchange Act Release No. 55547 (March 28, 2007), 72 FR 16388 (April 4, 2007) (SR–Amex–2006–110).

[22] 15 U.S.C. 78s(b)(5).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55634; File No. SR–NASDAQ–2007–036]**

## Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Pricing for Nasdaq Members Using the Nasdaq Market Center

April 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by Nasdaq. Pursuant to Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] Nasdaq has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective immediately upon filing.

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq proposes to modify the pricing for Nasdaq members using the Nasdaq Market Center. Nasdaq will implement this rule change on April 2, 2007.

The text of the proposed rule change is below. Proposed new language is *italicized*.[5]

* * * * *

7018. Nasdaq Market Center Order Execution and Routing

(a) The following charges shall apply to the use of the order execution and routing services of the Nasdaq Market Center by members for all securities that it trades.

FEES FOR ORDER EXECUTION IN THE NASDAQ MARKET CENTER; FEES FOR ROUTING OF ORDERS IN ALL SECURITIES TO VENUES OTHER THAN THE NEW YORK STOCK EXCHANGE ("NYSE"); AND FEES FOR ROUTING ORDERS IN EXCHANGE-TRADED FUNDS TO NYSE

| | |
|---|---|
| Charge to member entering order that executes in the Nasdaq Market Center or attempts to execute in the Nasdaq Market Center prior to routing: | |
| Members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 35 million shares of liquidity provided, and (ii) more than 55 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 25 million shares of liquidity provided, and (ii) more than 65 million shares of liquidity accessed and/or routed. | $0.0026 per share executed for securities priced at $1 or more per share.<br>0.1% of the total transaction cost for executions in the Nasdaq Market Center of securities priced at less than $1 per share.<br>0.3% of the total transaction cost for routed orders in securities priced at less than $1 per share. |
| Members with an average daily volume through the Nasdaq Market Center in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 35 million shares of liquidity accessed and/or routed. | $0.0028 per share executed for securities priced at $1 or more per share.<br>0.1% of the total transaction cost for executions in the Nasdaq Market Center of securities priced at less than $1 per share.<br>0.3% of the total transaction cost for routed orders in securities priced at less than $1 per share. |
| Other members | $0.0030 per share executed for securities priced at $1 or more per share.<br>0.1% of the total transaction cost for executions in the Nasdaq Market Center of securities priced at less than $1 per share.<br>0.3% of the total transaction cost for routed orders in securities priced at less than $1 per share. |
| Charge to member entering order that does not attempt to execute in the Nasdaq Market Center prior to routing. | *$0.0035 per share executed for a Directed Intermarket Sweep Order for securities priced at $1 or more per share.*<br>$0.0030 per share executed *for other orders* for securities priced at $1 or more per share.<br>0.3% of the total transaction cost for routed orders in securities priced at less than $1 per share. |
| Surcharge for order routed to the American Stock Exchange and charged a fee by the specialist. | $0.01 per share executed. |
| Credit to member providing liquidity through the Nasdaq Market Center: | |
| Members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 35 million shares of liquidity provided. | $0.0025 per share executed (or $0, in the case of executions against Quotes/Orders in the Nasdaq Market Center at less than $1.00 per share). |
| Members with an average daily volume through the Nasdaq Market Center in all securities during the month of more than 20 million shares of liquidity provided. | $0.0022 per share executed (or $0, in the case of executions against Quotes/Orders in the Nasdaq Market Center at less than $1.00 per share). |
| Other members | $0.0020 per share executed (or $0, in the case of executions against Quotes/Orders in the Nasdaq Market Center at less than $1.00 per share). |

FEES FOR ROUTING ORDERS IN SECURITIES OTHER THAN EXCHANGE-TRADED FUNDS TO NYSE

| | |
|---|---|
| Order that attempts to execute in the Nasdaq Market Center prior to routing and being executed at NYSE. | $0.000225 per share executed for securities priced at $1 or more per share.<br>0.3% of the total transaction cost for routed orders in securities priced at less than $1 per share. |
| Order that does not attempt to execute in the Nasdaq Market Center prior to routing and being executed at NYSE. | *$0.0035 per share executed for a Directed Intermarket Sweep Order for securities priced at $1 or more per share.*<br>$0.000275 per share executed *for other orders* for securities priced at $1 or more per share.<br>0.3% of the total transaction cost for routed orders in securities priced at less than $1 per share. |
| Order that is routed to NYSE and then routed to another venue for execution. | A pass-through of any routing fees charged to Nasdaq by NYSE. |

[5] Changes are marked to the rule text that appears in the electronic Nasdaq Manual found at *http://nasdaq.complinet.com*, as amended by Securities Exchange Act Release No. 55576 (April 3, 2007), 72 FR 17969 (April 10, 2007) (SR–NASDAQ–2007–026), on an immediately effective basis.

* * * * *

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Nasdaq is establishing a fee of $0.0035 per share executed for orders that are designated as Directed Intermarket Sweep Orders (unless the order is for a security priced under $1, in which case the fee is 0.3% of the transaction value). As described in SR–NASDAQ–2007–020,[6] a Directed Order allows a market participant to enter an order into Nasdaq that is designated for routing to another exchange without first checking the Nasdaq book. By designating a Directed Order as an Intermarket Sweep Order, the market participant entering the order represents that it is complying with the requirements of Regulation NMS Rules 610 and 611.[7] Because these orders bypass the Nasdaq book, and because Nasdaq will incur costs for post-trade surveillance of members' compliance with these rules, Nasdaq believes that an increased routing fee of $0.0035 is warranted.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and with Section 6(b)(4) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls. Nasdaq believes that an increased fee for Directed Intermarket Sweep Orders is appropriate in light of their special characteristics.

[6] *See* Securities Exchange Act Release No. 55405 (March 6, 2007), 72 FR 11069 (March 12, 2007).

[7] 17 CFR 242.610 and 242.611.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(6)(4).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[10] and subparagraph (f)(2) of Rule 19b–4 thereunder because it establishes or changes a due, fee, or other charge.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2007–036 on the subject line.

*Paper Comments:*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2007–036. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2007–036 and should be submitted on or before May 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7485 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 C FR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55633; File No. SR–NASDAQ–2007–041]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees of Other Market Centers Related to Clearly Erroneous Rulings

April 16, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 10, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq submitted the proposed rule change under Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq proposes to pass through fees related to clearly erroneous rulings that are charged to Nasdaq by other markets. Nasdaq will implement the proposed rule change immediately.

The text of the proposed rule change is below. Proposed new language is in italics.[5]

* * * * *

11890. Clearly Erroneous Transactions

(a)–(b) No change.

(c) Review by the Market Operations Review Committee (''MORC'')

(1)–(3) No change.

(4) The party initiating the appeal shall be assessed a $500.00 fee if the MORC upholds the decision of the Nasdaq officer. *In addition, in instances where Nasdaq, on behalf of a member, requests a determination by another market center that a transaction is clearly erroneous, Nasdaq will pass any resulting charges through to the relevant member.*

(d) No change.

* * * * *

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Nasdaq recently amended Rule 11890, which covers the breaking of trades determined to be clearly erroneous, to add a new Rule 11890(c)(4) that assesses a fee of $500 for unsuccessful appeals of clearly erroneous adjudications by Nasdaq. Nasdaq is now adding a sentence to the rule to provide that in instances where Nasdaq, on behalf of a member, requests a determination by another market center that a transaction is clearly erroneous, Nasdaq will pass any resulting charges through to the relevant member. The proposed change reflects the fact that NYSE Arca recently adopted a similar $500 appellate fee, and other market centers may follow suit.[6]

If a Nasdaq member enters an order into Nasdaq that is routed to NYSE Arca and executed there, the Nasdaq member may not have standing to file under NYSE Arca rules to seek a determination that the execution was clearly erroneous if it is not an NYSE Arca member. Accordingly, Nasdaq Execution Services, Nasdaq's routing broker-dealer, which is a member of NYSE Arca, will file a petition under NYSE Arca rules if the Nasdaq member requests. If an appeal is unsuccessful, Nasdaq will be charged under NYSE Arca rules. Accordingly, Nasdaq proposes to pass the charge through, on a dollar-for-dollar basis, to the member that requested the appeal.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that the provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls. Nasdaq believes that the change will allocate charges for adjudications under the clearly erroneous rules of other market centers to the Nasdaq members that initiate such adjudications.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2007–041 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2007–041. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be

[5] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *http://nasdaq.complinet.com*.

[6] Securities Exchange Act Release No. 54655 (October 26, 2006), 71 FR 64596 (November 2, 2006) (SR–NYSEArca–2006–48).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

available for inspection and copying at the principal office of Nasdaq.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2007–041 and should be submitted on or before May 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–7487 Filed 4–19–07; 8:45 am]

**BILLING CODE 8010–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2007–14]**

### Petitions for Exemption; Summary of Petitions Received

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

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** This notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion of omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before May 10, 2007.

**ADDRESSES:** Send comments to the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2007–27705 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Frances Shaver (202–267–9681), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591–3356 or Tyneka Thomas (202–267–7626), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591–3356.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC., on April 5, 2007.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

### Petitions for Exemption

*Docket No.:* FAA–2007–27705.

*Petitioner:* CareFlite.

*Section of 14 CFR Affected:* 14 CFR 43(h)(i).

*Description of Relief Sought:* The exemption, if granted, would allow trained CareFlite medical crew members to remove the Propaq mount without requiring the pilot to shut down the aircraft and perform the function.

[FR Doc. 07–1940 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[Docket No. FHWA–2007–27951]**

### Agency Information Collection Activities: Request for Comments for New Information Collection

**AGENCY:** Federal Highway Administration (FHWA), DOT.

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

**SUMMARY:** The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on February 12, 2005. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by May 21, 2007.

**ADDRESSES:** You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2007–27951.

**FOR FURTHER INFORMATION CONTACT:** Mike Neathery, 202–366–1257 or Martin Weiss, 202–366–5010, Office of Interstate and Border Planning, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Rural Transportation Research.

*Background:* Section 5513(f) of The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005 (SAFETEA–LU) provides a grant to the New England Transportation Institute (hence ''the Institute'') in White River Junction, Vermont, to conduct rural transportation research. The Institute will undertake research and analysis in support of two research issues: (1) Rural Transportation Issues Definition and Refinement; and (2) Rural Transportation Safety and Health. The research includes a 2-part survey to develop information that will help support a ''portrait'' of present rural transportation patterns. Applying the concepts of both ''mobility'' and ''accessibility'' to the rural Northeast, the Institute's surveys will explore the issues of ''rural isolation'' and, driver travel behavior. The survey will address these questions:

- How serious a problem is rural isolation and perceptions of access (or lack thereof)?
- How are the economic forces acting on the rural areas affecting the manner, and length of trips in the rural Northeast?
- How are demographics going to change and/or influence the demands made on the transportation system?

[11] 17 CFR 200.30–3(a)(12).

• What would be the transportation implications of different settlement patterns?

*Respondents:* Approximately 800 respondents for survey 1 and 600 respondents for survey 2.

*Frequency:* One time.

*Estimated Average Burden per Response:* 30 minutes per survey.

*Estimated Total Burden Hours:* Approximate one time burden of 700 hours.

*Electronic Access:* Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov,* 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: April 17, 2007.

**James R. Kabel,**

*Chief, Management Programs and Analysis Division.*

[FR Doc. E7–7560 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[Docket No. FHWA–2007–27950]**

### Notice of Request for Extension of Currently Approved Information Collection

**AGENCY:** Federal Highway Administration (FHWA), DOT.

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

**SUMMARY:** The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to renew an information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on February 13, 2007. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by May 21, 2007.

**ADDRESSES:** You may send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC, 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket Number FHWA–2007–27950.

**FOR FURTHER INFORMATION CONTACT:** Bob Bini, 202–366–6799, or Cynthia Hatley, 202–493–0426, Office of Federal Lands Highway, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Federal Lands Highway Program.

*OMB Control #:* 2125–0598.

*Background:* Title 23 U.S.C. 204 requires the Secretary of Transportation and the Secretary of each appropriate Federal land management agency to develop, to the extent appropriate, safety, bridge, pavement, and congestion management systems for roads funded under the Federal Lands Highway Program (FLHP). A management system is a process for collecting, organizing, and analyzing data to provide a strategic approach to transportation planning, program development, and project selection. Its purposes are to improve transportation system performance and safety, and to develop alternative strategies for enhancing mobility of people and goods. This data collection clearance addresses the management systems for the National Park Service (NPS) and the Park Roads and Parkways (PRP) Program; Bureau of Indian Affairs (BIA) and the Indian Reservation Roads (IRR) Program; Fish and Wildlife Service (FWS) and the Refuge Roads (RR) Program; and Forest Service (FS) and the Forest Highway (FH) Program.

Outputs from the management systems are important tools for the development of transportation plans and transportation improvement programs, and in making project selection decisions consistent with 23 U.S.C. 204. Further, management system outputs also provide important information to the FHWA for their stewardship and oversight roles for the Park Roads and Parkways, Indian Reservation Roads, Refuge Roads, and Forest Highway Programs. The data collection required to implement these management systems supports the DOT Strategic Objectives of Safety, Mobility, Environmental Stewardship, and Organizational Excellence. The proposed data collection also directly supports the FHWA's Vital Few Initiative of Safety, Congestion Mitigation, and Environmental Stewardship and Streamlining that represent the three most important strategic planning and performance goals for the agency.

The National Park Service, Bureau of Indian Affairs, Fish and Wildlife Service, and Forest Service are continuing to implement the required management systems and the associated information collections. Completion of this phase-in of the management systems is expected to occur during the time period covered by this information collection, and the average annual burden estimates are based on expected increases in the overall burden over that time period. The management systems vary in complexity among the four agencies and reflect differences in the characteristics of the transportation systems involved such as size, ownership, and eligibility for inclusion in the program. These variations result in differences among the agencies in the expected number of respondents to the information collection, and in the anticipated time necessary to respond to the information collection.

Typical information that might be collected for the management systems includes:

• Traffic information including volumes, speeds, and vehicle classification;

• Pavement features such as number of lanes, length, width, surface type, functional classification, and shoulder information; and pavement condition information such as roughness, distress, rutting, and surface friction;

• Bridge features such as deck width, under/over-clearance, details of structural elements such as girders, joints, railings, bearings, abutments, and piers; and information on the condition of the bridge elements sufficient to describe the nature, extent, and severity of deterioration;

• Safety information such as crash records, crash rates, and an inventory of safety appurtenances such as signs and guardrails; or

• Congestion measures such as roadway level of service or travel delay.

Respondents to the information collection might be collecting and submitting information in one or more of these categories for the portion of their transportation system that is covered under the FLHP. For example, this might include the collection and submission of information for State or county-owned roads that are Forest Highways, or Indian Reservation Roads

owned by Indian Tribal Governments. Typically, the respondents would collect information each year for the portion of their system. Burden estimates have been developed using this assumption combined with an estimate of the time needed to collect and provide the information.

*Respondents:* The estimated average annual number of respondents for the management systems for each of the agencies addressed by this information collection is: The NPS management systems consist of 75 respondents. The breakdown is 35 States and 40 Metropolitan Planning Organizations (MPOs), regional transportation planning agencies, counties, local or tribal governments.

The BIA management system consists of 85 respondents. The breakdown is 35 States and 50 MPOs, regional transportation planning agencies, counties, local or tribal governments. The FWS management system consists of 75 respondents. The breakdown is 35 States and 40 MPOs, regional transportation planning agencies, counties, local or tribal governments. The FS management system consists of 85 respondents. The breakdown is 35 States and 50 MPOs, regional transportation planning agencies, counties, local or tribal governments.

*Frequency:* Annual.

*Estimated Average Annual Burden per Response:*

NPS management systems—Approximately 40 hours per respondent.

BIA management systems—Approximately 60 hours per respondent.

FWS management systems—Approximately 20 hours per respondent.

FS management systems—Approximately 60 hours per respondent.

*Estimated Total Annual Burden Hours:* Total estimated average annual burden is 14,700 hours.

Issued on: April 17, 2007.

**James R. Kabel,**

*Chief, Management Programs and Analysis Division.*

[FR Doc. E7–7561 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–97–3001]**

### Pipeline Safety: Notice of Availability of a Study on Burial of Submerged Pipelines

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

**ACTION:** Notice of availability of study and request for comments.

**SUMMARY:** This notice announces the availability of PHMSA's study titled ''Burial of Submerged Pipelines'', which addresses the hazards to navigation from offshore submerged pipelines. PHMSA requests comments on the study to assist in evaluating the need for further analysis due to anticipated changes in the offshore environment.

**DATES:** Comments must be submitted by May 21, 2007.

**ADDRESSES:** The study is located in docket number PHMSA–97–3001. To submit comments, reference the docket number and use one of the following:

- *DOT Web site: http://dms.dot.gov*. To submit comments on the DOT electronic docket site, click ''Comment/Submissions,'' click ''Continue,'' fill in the requested information, click ''Continue,'' enter your comment, then click ''Submit.''
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW, Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System; 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.
- *E-Gov Web site: http://www.Regulations.gov*. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

*Instructions:* Identify the docket number, PHMSA–97–3001, at the beginning of your comments. If you mail your comments, send two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Online submit comments at *http://www.regulations.gov,* and may access all comments received by DOT at *http://dms.dot.gov* by performing a simple search for the docket number.

**Note:** PHMSA posts all comments without changes or edits to *http://dms.dot.gov,* including any personal information provided.

#### Privacy Act

Anyone can search the electronic form for comments received in response to 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.). DOT's complete Privacy Act Statement is published in the **Federal Register** on April 11, 2000 (65 FR 19477), and on the Web at *http://dms.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Joy Kadnar at (202) 366–0568, or by e-mail at *joy.kadnar@dot.gov*.

**SUPPLEMENTARY INFORMATION:**

#### Background

In July 1987, a fishing vessel struck and ruptured an eight-inch natural gas liquid pipeline in the Gulf of Mexico. The resulting explosion killed two crewmembers. In October 1989, a similar accident occurred in the Gulf of Mexico when a vessel struck a 16-inch gas pipeline. The resulting fire caused 11 fatalities.

The National Transportation Safety Board (NTSB) investigated these incidents and in 1990 issued safety recommendation number PS–90–29 to PHMSA, in 1990. The NTSB recommended PHMSA ''develop and implement effective methods and requirements to bury, protect, and inspect the burial depth of, and maintain, all submerged pipelines in areas subject to damage by surface vessels and their operations.''

PHMSA took immediate actions in response to this recommendation. In April 1990, PHMSA issued an Alert Notice to warn pipeline operators and the commercial fishing industry about the dangers of submerged pipelines. After completing extensive research, PHMSA developed a risk management profile for submerged pipelines. PHMSA also issued regulations requiring operators to develop and follow a procedure to identify and conduct periodic inspections of submerged pipelines in the Gulf of Mexico that pose a hazard to navigation (69 FR 48400; August 17, 2004).

The NTSB expressed concern that the 2004 final rule did not address offshore submerged pipelines outside the Gulf of Mexico, and requested that PHMSA further study these submerged pipelines. PHMSA recently completed the study to address the NTSB's concern. The study found that since

1990 there have been 58 reported instances of a vessel or its equipment striking a submerged pipeline offshore, and 64 reported instances where a submerged pipeline was either uncovered or presented a hazard to navigation. No incidents were found outside of the Gulf of Mexico.

The study addresses the impact of pipeline depth of burial and vessels in waters less than 15 feet of depth. PHMSA anticipates there will be changes in the offshore environment, such as liquefied natural gas import facilities. PHMSA is working with the Federal Energy Regulatory Commission to ensure adequate protection of LNG lines. PHMSA provides FERC with findings from our safety analysis for consideration of conditional terms for granting permits. Therefore, PHMSA has the ability to get safety concerns addressed through FERC by adding them as conditions of a permit. In addition, climate change may adversely affect offshore pipeline infrastructure by causing shifts in weather patterns, water depth or vessel traffic. PHMSA requests comments on the study to assist in evaluating the need for further analysis due to these anticipated changes in the offshore environment.

**Authority:** 49 U.S.C. 60102, 60115.

Issued in Washington, DC on April 16, 2007.

**Joy Kadnar,**

*Acting Associate Administrator for Pipeline Safety.*

[FR Doc. E7–7482 Filed 4–19–07; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 35017]**

### Mark K. Smith—Continuance in Control Exemption—Rock River Railroad, Inc.

Mark K. Smith (applicant) has filed a verified notice of exemption to continue in control of Rock River Railroad, Inc. (RRR), upon RRR's becoming a Class III rail carrier.

The earliest this transaction may be consummated is the May 6, 2007 effective date of the exemption (30 days after the exemption was filed).

This transaction is related to the concurrently filed notice of exemption in STB Finance Docket No. 35016, *Rock River Railroad, Inc.—Acquisition and Operation Exemption—Rail Lines of Renew Energy, LLC.* In that proceeding, RRR seeks to acquire and operate approximately 2,100 feet of rail line, located within the plant site of Renew Energy, LLC (RE), in Jefferson, Jefferson County, WI (the line). RRR will provide common carrier rail operations over the line and interchange with Union Pacific Railroad Company.

Applicant is a noncarrier and currently controls Rail & Transload, Inc. (R&T), a Class III rail carrier.

Applicant states that: (1) The rail properties operated by R&T and those to be operated by RRR do not connect with each other or any railroads in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines of R&T and RRR with each other or any railroads in their corporate family; and (3) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2). The purpose of this transaction is to allow applicant to continue in control of RRR after RRR becomes a Class III rail carrier.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under section 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 27, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35017, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 13, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7–7586 Filed 4–19–07; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 35016]**

### Rock River Railroad, Inc.—Acquisition and Operation Exemption—Rail Lines of Renew Energy, LLC

Rock River Railroad, Inc. (RRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Renew Energy, LLC (RE), and to operate approximately 2,100 feet of rail line, located within the plant site of RE, in Jefferson, Jefferson County, WI (the line).[1]

This transaction is related to the concurrently filed notice of exemption in STB Finance Docket No. 35017, *Mark K. Smith—Continuance in Control Exemption—Rock River Railroad, Inc.,* wherein Mark K. Smith seeks to continue in control of RRR upon its becoming a Class III rail carrier.

RRR states that the line connects with Union Pacific Railroad Company at both of its termini. RRR further states that, although the line has been owned and operated by RE as private track and might otherwise be considered to be spur, industrial, or switching track exempt from the Board's acquisition and operation authority under 49 U.S.C. 10906, it constitutes a line of railroad for which an exemption from the Board is required because it is RRR's initial rail acquisition and operation.[2]

RRR certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

The earliest this transaction may be consummated is the May 6, 2007 effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of

[1] According to RRR, the line does not have mileposts.

[2] *See Effingham RR Co.—Pet. For Declaratory Order,* 2 S.T.B. 606 (1997), *aff'd sub nom., United Transp. Union* v. *Surface Transp. Bd.,* 183 F.3d 606 (7 Cir. 1999); *see also Bulkmatic Railroad Corporation—Acquisition & Operation Exemption—Bulkmatic Transport Company,* STB Finance Docket No. 34145 (STB served Nov. 19, 2002).

a petition to revoke will not automatically stay the effectiveness of the transaction. Petitions for stay must be filed no later than April 27, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35016, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 13, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7–7590 Filed 4–19–07; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 35015]**

### Kaw River Railroad, Inc.—Lease and Operation Exemption [1]—BNSF Railway Company

Kaw River Railroad, Inc. (KRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from BNSF Railway Company (BNSF) and operate approximately 14.66 miles of rail lines located in BNSF's Bedford Yard and the Bedford Industrial Park, in North Kansas City, MO, as follows: Track Numbers 1601 through 1605, including associated lead Track Numbers 1 through 10 coming off of Track Number 1606, and Track Number 1606 starting on the west end from the clearance point of the switch with Track Number 1502. In conjunction with the lease of these rail lines, KRR will acquire incidental, restricted overhead trackage rights over a 1.52-mile BNSF rail line located between the Bedford Yard and the Kansas City Southern Railway Company (KCS) track leading to KCS's Knoche Yard via the ASB Bridge, in North Kansas City.

KRR certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier and will not exceed $5 million.

The earliest this transaction may be consummated is the May 6, 2007 effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than April 27, 2007.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35015, must be filed with the Surface Transportation Board, 395 E. Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 12, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7–7544 Filed 4–19–07; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–6 (Sub-No. 452X)]**

### BNSF Railway Company—Abandonment Exemption—in Clinton and Marion Counties, IL

BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.05 miles of rail line, extending between milepost 13.97 and milepost 15.02, near Centralia, in Clinton and Marion Counties, IL.[1] The line traverses United States Postal Service Zip Code 62801.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line will be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 22, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 30, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 10, 2007, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 27, 2007. Interested persons may obtain a copy of the EA by writing to

[1] The original notice did not include ''operation'' in the title. Because it is clear that KRR will also become the operator of the leased lines, the title has been revised accordingly.

[1] In a letter filed on April 5, 2007, BNSF clarifies that its use of MN in the headings of the notice is a clerical error, and that MN should be replaced with IL in the headings, as is consistent with the use of IL or Illinois in the text of the notice and newspaper publication.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,300. *See* 49 CFR 1002.2(f)(25).

SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by April 20, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 9, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7–7535 Filed 4–19–07; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

April 13, 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 21, 2007 to be assured of consideration.

**Bureau of Public Debt (BPD)**

*MB Number:* 1535–0094

*Type of Review:* Extension.

*Title:* Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities.

*Description:* The information is needed in order to make payments to investors in United States Securities by the Automated Clearing House (ACH) method.

*Respondents:* Individuals or Households.

*Estimated Total Burden Hours:* 1 hour.

*OMB Number:* 1535–0131.

*Type of Review:* Extension.

*Title:* Application For Disposition of Series I Savings Bonds after the Death of the registered owner(s).

*Form:* PD F 5394.

*Description:* Used to distribute Series I savings bonds after the death of the registered owner(s).

*Respondents:* Individuals or Households.

*Estimated Total Burden Hours:* 2,050 hours.

*OMB Number:* 1535–0095.

*Type of Review:* Extension.

*Title:* Regulations Governing United States Savings Bonds Series E/EE and H/HH.

*Description:* The regulations mandate the payment of H/HH interest by Direct Deposit (ACH method).

*Respondents:* Individuals or Households.

*Estimated Total Burden Hours:* 1 hour.

*OMB Number:* 1535–0121.

*Type of Review:* Extension.

*Title:* U.S. Treasury Securities State and Local Government Series Early Redemption Request.

*Form:* PD F 5377.

*Description:* Used for early redemption of State and Local Government Series Securities.

*Respondents:* State, Local and Tribal Government.

*Estimated Total Burden Hours:* 247 hours.

*Clearance Officer:* Vicki S. Thorpe (304) 480–8150, Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26106.

*OMB Reviewer:* Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Michael A. Robinson,**

*Treasury PRA Clearance Officer.*

[FR Doc. E7–7562 Filed 4–19–07; 8:45 am]

**BILLING CODE 4810–39–P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Surety Companies Acceptable on Federal Bonds: Hudson Insurance Company

**AGENCY:** Financial Management Service, Fiscal Service, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** This is Supplemental No. 8 to the Treasury Department Circular 570; 2006 Revision, published June 30, 2006, at 71 FR 37694.

**FOR FURTHER INFORMATION CONTACT:** Surety Bond Branch at (202) 874–6850.

**SUPPLEMENTARY INFORMATION:** A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9305 to the following Company:

Hudson Insurance Company (NAIC #25054). Business Address: 17 State Street, 29th Floor, New York, NY 10004. Phone: (212) 978–2851. Underwriting Limitation b/: $11,542,000. Surety Licenses c/: AL, AK, AR, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MT, NE, NV, NJ, NIM, NY, OH, OK, OR, PA, SD, TN, TX, UT, VT, WA, WV, WI, WY. Incorporated IN: Delaware.

Federal-bond-approving officers should annotate their reference copies of the Treasury Circular 570 (''Circular''), 2006 Revision, to reflect this addition.

Certificates of Authority expire on June 30th each year, unless revoked prior to that date. The Certificate are subject to subsequent annual renewal as long as the companies remain qualified (*see* 31 CFR part 223). A list of qualified companies is published annually as of July 1st in the Circular, which outlines details as to underwriting limitations, areas in which companies are licensed to transact surety business, and other information.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: April 5, 2007.

**Vivian L. Cooper,**

*Director, Financial Accounting and Services Division, Financial Management Service.*

[FR Doc. 07–1954 Filed 4–19–07; 8:45 am]

**BILLING CODE 4810–35–M**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[REG–115393–98]**

### Proposed Collection; Comment Request for Regulation Project

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

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, REG–115393–98 (TD 8816), Roth IRAs (§§ 1.408A–2, 1.408A–4, 1.408A–5 and 1.408A–7).

**DATES:** Written comments should be received on or before June 19, 2007 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Roth IRAs.

*OMB Number:* 1545–1616.

*Regulation Project Numbers:* REG–115393–98.

*Abstract:* The regulations provide guidance on establishing Roth IRAs, contributions to Roth IRAs, converting amounts to Roth IRAs, recharacterizing IRA contributions, Roth IRA distributions and Roth IRA reporting requirements.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of OMB approval.

*Affected Public:* Individuals or households, business or other for-profit and not-for-profit organizations.

*Estimated Number of Respondents:* 3,150,000.

*Estimated Time Per Respondent:* 1 minute for designating an IRA as a Roth IRA. 30 minutes for recharacterizing an IRA contribution.

*Estimated Total Annual Burden Hours:* 125,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 19, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–7473 Filed 4–19–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 2007–XX

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

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2007–XX, Section 6707/6707A Accelerated Appeals Procedure.

**DATES:** Written comments should be received on or before June 19, 2007 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of revenue procedure should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Section 6707–6707A Accelerated Appeals Procedure.

*OMB Number:* 1545–XXXX.

*Revenue Procedure Number:* Revenue Procedure 2007–XX.

*Abstract:* The collection of information this revenue procedure requires is necessary to administer the provisions of section 6707(c) and 6707A(d) and to conduct Appeals procedures for those provisions.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* This is a new collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 860.

*Estimated Average Time Per Respondent:* 30 min.

*Estimated Total Annual Burden Hours:* 430.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 13, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–7474 Filed 4–19–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for TAP Tax Check Waiver

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

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning TAP Tax Check Waiver.

**DATES:** Written comments should be received on or before June 19, 2007 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* TAP Tax Check Waiver.

*OMB Number:* 1545–XXXX.

*Abstract:* Taxpayer Advocacy Panel (TAP) members must be compliant with their tax obligations and must undergo and pass a Tax check in order to be selected as a TAP member. By executing the Tax Check Waiver, the applicant provides information to facilitate conduct of the Tax Check and authorizes the IRS official conducting the Check to release the results of the Check, which are otherwise confidential, to the Director of TAP to help in determining the suitability of the applicant for membership on TAP.

*Current Actions:* There are no changes being made to form at this time.

*Type of Review:* Approval of new collection.

*Affected Public:* Individuals and households.

*Estimated Number of Respondents:* 110.

*Estimated Time Per Respondent:* 20 min.

*Estimated Total Annual Burden Hours:* 37.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 13, 2007.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–7476 Filed 4–19–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 2007-XX

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

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2007–XX, Certain Payments Made Pursuant to a Securities Lending Transaction or Sale-Repurchase Transaction.

**DATES:** Written comments should be received on or before June 19, 2007 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Certain Payments Made Pursuant to a Securities Lending Transaction or Sale-Repurchase Transaction.

*OMB Number:* 1545–XXXX.

*Notice Number:* Notice 2007–XX.

*Abstract:* The IRS need the information from payor(s) in order to verify the accuracy of withholding, reporting, and claims for credits with regard to substitute payments. The likely respondents will be withholding agents and qualified intermediaries.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* This is a new collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 377,500.

*Estimated Average Time Per Respondent:* 10 min.

*Estimated Total Annual Burden Hours:* 61,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 13, 2007.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–7477 Filed 4–19–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 2007 Software Developers Conference

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

**ACTION:** Software Developers Conference Notification.

**SUMMARY:** The Internal Revenue Service will host the 2007 Software Developers Conference on June 11 and 12, 2007. The conference will be held at the Marriott Crystal Gateway Hotel in Arlington, Virginia. Listed is a summary of the agenda along with planned discussion topics:

Summarized Agenda for June 11 and June 12, 2007

8 a.m. Conference Begins

11:30 a.m. Break for Lunch

1 p.m. Conference Resumes

4:30 p.m. Conference Adjourns

The planned discussion topics include:

- EMS Changes
- Electronic Signatures and Alternatives
- Interoperability
- Modernized e-File
- Security
- Payroll Tax Issues
- Service Oriented Architecture

**Note:** Last minute changes to these topics are possible and could prevent advance notice.

**DATES:** The Software Developers Conference will be held on Monday and Tuesday, June 11 and June 12, 2007. The conference will be held in a room that accommodates approximately 400 people including IRS officials.

**ADDRESSES:** The conference will be held in the Marriott Crystal Gateway Hotel 1700 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Registration for the Software Developers Conference may be assessed at *http://www.irsSoftware DevelopersConference.com/.*

Participants should register on line for the conference by June 5. Participants may register online or by phone for blocked hotel rooms at a reduced rate by May 14. On site registration will also be available. If you need additional information, you may contact Justin McCarty at (202) 283–2665 or send an e-mail to *IRS.SW.CONF@irs.gov.*

**SUPPLEMENTARY INFORMATION:** The IRS Software Developers Conference provides information and dialogue on issues of interest to IRS e-file software developers and transmitters.

Dated: April 10, 2007.

**Gregory Kay,**

*Director, Strategic Services Division.*

[FR Doc. E7–7479 Filed 4–19–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Cemeteries and Memorials; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Cemeteries and Memorials will be held May 16–17, 2007, at the Courtyard by Marriott Atlanta Buckhead, 3332 Peachtree Road, NE., Atlanta, GA. On May 16, the meeting will begin at 8 a.m. and conclude at 3:45 p.m. On May 17, the meeting will begin at 8:30 a.m. and conclude at approximately 4 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of national cemeteries, soldiers' lots and plots, the selection of new national cemetery sites, the erection of appropriation memorials, and the adequacy of Federal burial benefits.

On May 16, 2007, the Committee will receive updates on National Cemetery Administration issues. On May 17, 2007, the Committee will tour Georgia and Marietta National Cemeteries and then reconvene at the hotel for a business session in the afternoon, which will include discussions of Committee recommendations, future meeting sites, and potential agenda topics at future meetings.

Time will not be allocated for receiving oral presentations from the public. Any member of the public wishing to attend the meeting should contact Mr. Michael Nacincik, Designated Federal Officer, at (202) 273–5221. The Committee will accept written comments. Comments may be transmitted electronically to the Committee at *Michael.n@va.gov* or mailed to the National Cemetery Administration (41C2), 810 Vermont Avenue, NW., Washington, DC 20420. In the public's communications with the Committee, the writers must identify themselves and state the organizations, associations, or persons they represent.

Dated: April 16, 2007.

By direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 07–1970 Filed 4–19–07; 8:45 am]

**BILLING CODE 8320–01–M**

## DEPARTMENT OF VETERANS AFFAIRS

### National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the National Research Advisory Council will hold a meeting on Monday, May 7, 2007, in room 900 at the Greenhoot Cohen Building, 1722 I Street, NW., Washington, DC. The meeting will convene at 8 a.m. and end at 3 p.m. The meeting is open to the public.

The purpose of the Council is to provide external advice and review for VA's research mission. The May 7 meeting agenda will include a review of the VA research portfolio, a summary of current budget allocations and a discussion of information security. The Council will also provide feedback on the direction/focus of VA's research initiatives.

Any member of the public who expects to attend the meeting or wants additional information should contact Jay A. Freedman, PhD, Designated Federal Officer, at (202) 254–0267. Oral comments from the public will not be accepted at the meeting. Written statements or comments should be transmitted electronically to *jay.freedman@va.gov* or mailed to Dr. Freedman at Department of Veterans Affairs, Office of Research and Development (12), 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: April 16, 2007.

By Direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 07–1948 Filed 4–19–05; 8:45 am]

**BILLING CODE 8320–01–M**

## DEPARTMENT OF VETERANS AFFAIRS

### Veterans' Advisory Committee on Education; Notice of Meeting

The Department of Veterans Affairs gives notice under Pub. L. 92–463 (Federal Advisory Committee Act) that the Veterans' Advisory Committee on Education will meet on May 16–17, 2007. On May 16, the session will be held in room C–7A at the VA Central Office, 810 Vermont Avenue, NW., Washington, DC. On May 17, the session will be held at the Veterans of Foreign Wars Building, 200 Maryland Avenue, NE., Washington, DC. Sessions will begin at 8:30 a.m. each day, ending at 4:15 p.m. on May 16 and at 12 noon on May 17. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of education and training programs for veterans, servicepersons, reservists, and dependents of veterans under Chapters 30, 32, 35, and 36 of title 38, and Chapter 1606 of title 10, United States Code.

On May 16, the agenda will include opening remarks and an overview by Mr. James Bombard, Committee Chair. In addition, this session will include discussion on proposed and new legislation, a total force GI Bill, chapter 1606 eligibility extension, on-the-job training and apprenticeship programs and the contract call center. oral statements from the public will be heard at 4 p.m. On May 17, the Committee will review and summarize issues discussed during the meeting.

Interested persons may file written statements with the Committee before the meeting, or within 10 days after the meeting, with mr. Salminio Garner, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration, Education Service (225B), 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Mr. Salminio Garner or Mr. Robyn Noles at (202) 273–7187.

Dated: April 16, 2007.

By Direction of the Secretary

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 07–1947 Filed 4–19–07; 8:45 am]

**BILLING CODE 8320–07–M**

Federal Register

**Friday,**
**April 20, 2007**

## Part II

# Department of Housing and Urban Development

**24 CFR Part 1000**

**Native American Housing Assistance and Self-Determination Act (NAHASDA); Revisions to the Indian Housing Block Grant Program Formula; Final Rule**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 1000

**[Docket No. FR–4938–F–03]**

**RIN 2577–AC57**

## Native American Housing Assistance and Self-Determination Act (NAHASDA); Revisions to the Indian Housing Block Grant Program Formula

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes several revisions to the regulations for the Indian Housing Block Grant (IHBG) program allocation formula. Through the IHBG program, HUD provides federal housing assistance to Indian tribes in a manner that recognizes the right of Indian self-determination and tribal self-government. This final rule follows publication of a February 25, 2005, proposed rule and takes into consideration the public comments received on the proposed rule. Other than one conforming change, this final rule adopts the February 25, 2005, proposed rule without change. HUD negotiated the proposed rule and final rule with active tribal participation and using the procedures of the Negotiated Rulemaking Act of 1990.

**DATES:** Effective Date. May 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington, DC 20410–5000; telephone (202) 401–7914 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On February 25, 2005, HUD published a proposed rule (70 FR 9490) to revise the regulations for the Indian Housing Block Grant (IHBG) program allocation formula. The IHBG program is authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA), which changed the way that housing assistance is provided to Native Americans. NAHASDA eliminated several separate assistance programs and replaced them with a single block grant program. NAHASDA and its implementing regulations at 24 CFR part 1000 recognize tribal self-determination and self-governance while establishing reasonable standards of accountability. The part 1000 regulations were developed with active tribal participation using the procedures of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570).

Under the IHBG program, HUD makes assistance available to eligible Indian tribes for affordable housing activities. The amount of assistance made available to each Indian tribe is determined in accordance with the allocation formula that was developed as part of the NAHASDA negotiated rulemaking process (IHBG Formula). A regulatory description of the IHBG Formula is located in subpart D of 24 CFR part 1000 (§§ 1000.301–1000.340).

The current IHBG Formula consists of two components: Need and Formula Current Assisted Stock (FCAS). Generally, the amount of annual funding for an Indian tribe is the sum of the Need component (subject to a minimum funding amount authorized by § 1000.328) and the FCAS component. Based on the amount of funding appropriated annually for the IHBG program, HUD calculates the annual grant for each Indian tribe and provides this information to the Indian tribes. An Indian Housing Plan (IHP) for the Indian tribe is then submitted to HUD. If the IHP is found to be in compliance with statutory and regulatory requirements, the grant is made.

Section 1000.306 of the IHBG program regulations provides that the IHBG Formula shall be reviewed within 5 years after issuance. Accordingly, HUD established the IHBG Formula Negotiated Rulemaking Committee (Committee) for the purposes of reviewing the regulations at 24 CFR part 1000, subpart D, and negotiating recommendations for a possible proposed rule modifying the IHBG Formula. The Committee membership consisted of 24 elected officers of tribal governments (or authorized designees of those tribal governments). The Committee membership reflected a balanced representation of Indian tribes, both geographically and based on size. In addition to the tribal members, there were two HUD representatives on the Committee. The first meeting of the Committee took place in April 2003 and the Committee continued to meet thereafter on approximately a monthly basis. The Committee met a total of seven times to negotiate the proposed rule, with the final meeting being held in January 2004. All of the Committee sessions were announced in the **Federal Register** and were open to the public, and interested members of the public actively participated in the workgroup sessions. The February 25, 2005, proposed rule reflected the consensus decisions reached by the Committee during the negotiated rulemaking process on the best way to address certain areas of the IHBG Formula that the Committee determined required clarification, were outdated, or were not operating as intended by the original Negotiated Rulemaking Committee. The preamble to the February 25, 2005, proposed rule provides additional details regarding the proposed regulatory changes to the IHBG Formula, and the negotiated rulemaking process used to develop the proposed changes.

### II. This Final Rule; Conforming Change to the February 25, 2005, Proposed Rule

This final rule follows publication of the February 25, 2005, proposed rule and takes into consideration the public comments received on the proposed rule. The public comment period on the proposed rule closed on April 26, 2005. HUD received 49 public comments from Indian tribes on the proposed rule. The Committee met on January 31 through February 1, 2006, to review and consider responses to the public comments. A drafting workgroup was charged with developing the preamble to this final rule. The membership of the workgroup consisted of HUD and tribal representatives. The 2-day meeting, which was open to the public, was announced in the **Federal Register** through a notice published on January 13, 2006 (71 FR 2176).

Conforming changes to appendices A and B were required based on the regulatory changes adopted by the Committee in this final rule. Therefore, these conforming changes to appendices A and B are adopted in this final rule. No other changes are made to the appendices.

After careful consideration of the comments, the Committee reached consensus on making a conforming typographical change to § 1000.316(a)(2) and (a)(3). Other than these conforming changes (which are discussed below in this preamble), the regulatory revisions that were proposed in the February 25, 2005, proposed rule are unchanged in this final rule.

### III. Discussion of Public Comments on the February 25, 2005, Proposed Rule

This section of the preamble presents a summary of the significant issues raised by the public commenters on the February 25, 2005, proposed rule and

the Committee's responses to these comments. For the convenience of readers, the discussion of the public comments is organized into three sections. The first section discusses the general comments that were received on the proposed rule. The second section discusses the public comments received on specific proposed regulatory changes contained in the proposed rule. The third section discusses the public comments received on non-consensus issues (i.e., those issues on which the Committee could not reach agreement on proposed regulatory language).

*A. General Comments*

*Comment.* Twenty-eight commenters praised the IHBG Formula negotiated rulemaking process and offered support that all revisions to NAHASDA regulations be developed using negotiated rulemaking. Further, these commenters requested that all public comments be considered by the Committee in a face-to-face meeting before HUD develops the final rule.

*Response:* The Committee appreciates the commenters' support for the negotiated rulemaking process and for the Committee's efforts. As noted above, this Committee met during January 31 through February 1, 2006, to consider the public comments and develop this final rule.

*B. Comments on Specific Proposed Regulatory Changes*

*Comment regarding the revised definition of Formula Area.* The February 25, 2005, rule proposed to revise the definition of the term ''Formula Area'' located in § 1000.302. Many comments were received on various aspects of this revised definition. For example, five commenters objected to the inclusion of Oklahoma Tribal Statistical Areas (OTSAs), as defined by the U.S. Census, in the list of acceptable formula areas. The commenters wrote that the inclusion of OTSAs as formula areas will ''shift funding from Reservation restricted trust lands to Fee Simple State lands.'' Other commenters suggested that the rule be revised to remove Tribal Designated Statistical Areas (TDSAs) from the list of formula areas. These commenters recommended that the final rule should instead use the listing of federally recognized tribes published by the Department of Interior.

*Response:* The final rule has not been revised in response to these comments. The Committee continues to believe that the proposed changes to the definition of Formula Area help to clarify the current definition and better address the different types of geographic areas served by Indian tribes. In response to the comments objecting to the inclusion of OTSAs, the Committee does not agree that the inclusion of such areas will necessarily result in a shift in funding and notes that the final rule continues to provide for challenges to the ''grandfathering'' of the current formula areas for such tribal areas in Oklahoma. Additionally, geographic areas encompassed by OTSAs are not new to the formula, but rather reflect a change in terminology used by the Census Bureau. These geographic areas were previously referred to as Tribal Jurisdictional Statistical Areas and have historically been included in the IHBG formula. With regard to the commenters recommending the use of the list of federally recognized tribes, some federally recognized tribes do not have a reservation or trust land. Additionally, five state recognized tribes have been grandfathered into the IHBG program by statute. As noted above, the inclusion of TDSAs simply provides Indian tribes with another Formula Area option that may better reflect the geographic areas they serve.

*Comments regarding the definition of Alaska Formula Area.* Several commenters raised concerns about the proposed definition of Alaska Formula Area. Some of these commenters were concerned about the procedures contained in the definition for crediting Alaska needs data. One of these commenters wrote that NAHASDA does not authorize HUD to grant IHBG funds to ''Alaska Native Villages,'' only to sovereign Indian or Alaska Native tribes, and suggested that the definition be revised accordingly. Some of the commenters raised concern about the provision for expanding Alaska Formula Areas. Several of these commenters objected to the perceived ''ability of any corporation to be able to expand their service or formula areas.'' Another commenter, however, requested that the final rule clarify the ability of Alaska Indian tribes to expand their Formula Area.

*Response:* The rule has not been revised in response to these comments. The regulatory provision regarding Alaska Formula Areas addresses the unique circumstances of Indian tribes in Alaska, and is consistent with the statutory requirements of NAHASDA. The language regarding the crediting of formula data is identical to that found in § 1000.327 of the current regulations. The change proposed by the February 25, 2005, rule was simply to transfer this language to the definition of Formula Area for purposes of clarity. With regard to the expansion of Alaska Formula Areas, the proposed and final rules make clear that Alaska tribes may seek to expand their Formula Areas in the same manner as any other Indian tribe. Alaska Native Villages have been listed and are recognized as ''federally recognized Indian tribes'' by the Secretary of Interior (70 FR 71194). Additionally, NAHASDA defines Alaska Native Villages, regional corporations, and village corporations as Indian tribes, expressly making them eligible for provisions under the statute.

*Comments on the population cap used to determine formula area.* Several commenters wrote in support of the continued use of the ''cap'' on the population data that will be attributed to an Indian tribe within its Formula Area. In particular, the commenters supported the clarification that for state-recognized tribes the population data and formula allocation shall be limited to tribal enrollment figures reflecting tribal enrollment criteria in effect in 1996. The commenters wrote that the cap must be enforced to prohibit state recognized tribes from being credited with any new members.

*Response:* The Committee agrees that the cap is necessary to maintain fairness for all Indian tribes. As explained in the preamble to the February 25, 2005, proposed rule, the provision regarding state-recognized Indian tribes is statutorily based. The definition of state-recognized tribe in section 4(12)(C)(ii) of NAHASDA requires that the allocation for such a tribe shall be determined based on tribal membership eligibility criteria in existence on the date of enactment (October 26, 1996). The language of the proposed rule (and adopted by this final rule) helps to ensure that state-recognized tribes will not be credited for any new members who do not meet the 1996 enrollment criteria. However, the rule does not prohibit a state-recognized Indian tribe from being credited with new members who meet the enrollment criteria in place in 1996 and it does not freeze a state-recognized Indian tribe's population data or formula allocation at 1996 levels.

*Comments regarding the expansion and redefinition of Formula Area.* The proposed rule described new procedures governing the expansion or re-definition of an Indian tribe's Formula Area. One tribe objected to reducing the new area to the ''smallest U.S. Census unit or units'' when there are other reasonable boundaries that can be followed, such as municipal or tribal boundaries.

*Response:* The rule has not been revised in response to this comment. The new requirements were carefully crafted by the Committee to ensure that

an Indian tribe seeking to include additional geography within its approved Formula Area has the authority to provide housing services within the new geography and will serve the housing needs of Native Americans within the expanded Formula Area. The provision noted by the commenter is consistent with these goals because it limits expansion to those U.S. Census units for which the tribe can verify that it has the requisite legal authority and the ability to provide housing services. Despite differing views on its limitations, the Committee decided to base the limitation on U.S. Census data because such data is uniformly collected and accessible to all Indian tribes and because no acceptable alternative source has yet been developed and agreed upon.

*Comments regarding the definition of Substantial Housing Services.* Among the required criteria for expanding its Formula Area, the Indian tribe must demonstrate that it is providing ''substantial housing services'' (as defined in the rule) within the new geographic area. Several of the commenters objected to the requirement that the tribe demonstrate affordable housing activities equal to at least 100 percent of the increase in its IHBG Formula allocation or 51 percent of the tribe's current formula allocation. The commenters wrote that this requirement establishes an excessively high and difficult threshold for expansion. Several commenters wrote that the definition would make it especially difficult for small tribes in California and Nevada, whose IHBG Formula allocation is based largely on the FCAS component needed for maintaining current housing stock, to include locations outside their existing Formula Areas even if they provide housing services to their enrolled members in those areas.

*Response:* The rule has not been revised in response to these comments. As noted above in this preamble, the new requirements regarding the expansion of Formula Area were carefully crafted by the Committee. The definition of substantial housing services intentionally contains thresholds that are designed to ensure that an Indian tribe seeking to include additional geography within its approved Formula Area has the authority to provide housing services within the new geography and will serve the housing needs of Native Americans within the expanded Formula Area. However, the definition also contains the necessary flexibility to help address geographic and other differences among Indian tribes. Specifically, the rule permits Indian tribes to satisfy the substantial housing services requirements in one of two ways: to either provide 100 percent of the increase in its IHBG Formula allocation or 51 percent of the tribe's current formula allocation if certain other conditions are satisfied.

*Comments regarding the use of U.S. Census data in overlapping Formula Areas.* Current regulations at § 1000.326 specify how IHBG funds will be allocated where the Formula Areas of one or more tribes overlap. Among other factors, the allocation will be based upon the Indian tribe's proportional share of the population in the geographic area. Tribal membership in the geographic area (not including dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use. The current regulation lists several suggested data sources, including tribal enrollment lists, Indian Health Service User Data, and Bureau of Indian Affairs data. This list is not exclusive, and the data used for this purpose has sometimes included U.S. Census data. For purposes of clarity, the proposed rule expanded the list of suggested data sources to explicitly include data from the U.S. Census. Five commenters objected to the use of Census data, suggesting that HUD instead utilize official enrollment data from the tribe.

*Response:* The change clarifies that the U.S. Census data is one of several data sources that may be used to determine tribal population. The Committee notes that the regulation does not require the use of Census data and does not preclude the use of other data, including the tribal enrollment figures recommended by the commenters. Accordingly, the Committee determined that a change to the rule was not necessary.

*Comments regarding the required use of the Formula Response Form for reporting changes to FCAS.* The February 25, 2005, rule proposed to add a new § 1000.315 and § 1000.319, both clarifying policies and procedures relating to the reporting of changes to FCAS. New § 1000.315 clarifies that the Formula Response Form is the only mechanism a recipient may use to report changes to the FCAS. New § 1000.319 provides that if a recipient receives an overpayment of funds because it failed to report changes on the Formula Response Form in a timely manner, the recipient must repay the funds within 5 fiscal years. Conversely, HUD has agreed to provide back funding for any undercount of units that occurred and was reported or challenged prior to October 30, 2003. In their comments, 34 tribes offered support for these rule changes. The commenters supported the change on over- and under-counting of FCAS, as well as the formula response form change at § 1000.319.

*Response:* The Committee appreciates the support of the comments. The final rule adopts the provisions of proposed §§ 1000.315 and 1000.319 without change.

*Comments regarding the calculation of the operating subsidy component of FCAS.* For clarity, the February 25, 2005, rule proposed to make a minor, non-substantive modification to § 1000.316(a)(1). The current language of the regulation provides that the first of the three variables comprising the operating subsidy component of FCAS is ''the number of low-rent FCAS units multiplied by the FY 1996 national per unit subsidy (adjusted to full funding level) multiplied by an adjustment factor for inflation.'' The proposed provision would simplify this provision by establishing a separate definition of the term ''national per unit subsidy'' in § 1000.302, which contains the definitions applicable to the IHBG program.

Twenty-eight commenters wrote in support of the change. However, one of the commenters identified a typographical inconsistency between § 1000.316(a)(1) and paragraphs (a)(2) and (a)(3) of § 1000.316. Specifically, the proposed rule inadvertently failed to include the same changes to paragraphs (a)(2) and (a)(3) as were proposed for paragraph (a)(1). The commenter requested that the final rule correct this error. Two other commenters submitted comments related to § 1000.316, but that were outside the scope of the proposed rule and therefore not appropriate for inclusion at this final rule stage. Specifically, one commenter advocated the participation of all Indian tribes in the Section 8 voucher program, while the other commenter advocated for increased IHBG funding.

*Response:* The Committee appreciates the support expressed by the commenters on the clarifying change. As noted above in this preamble, the final rule makes the necessary correction to paragraphs (a)(2) and (a)(3) of § 1000.316.

*Comments regarding the FCAS modernization allocation for small Indian tribes.* The February 25, 2005, rule proposed to implement a statutory amendment to NAHASDA by making various conforming changes to the IHBG regulations. Section 1003(g) of the Omnibus Indian Advancement Act (Pub. L. 106–568, approved December 27, 2000) added a new subsection

302(d)(1)(B) to NAHASDA regarding operating and modernization funding for Indian tribes with Indian Housing Authorities (IHAs) that owned or operated fewer than 250 units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act). The proposed rule contained conforming changes to § 1000.316 and § 1000.340 to codify this statutory requirement.

Twenty-nine commenters offered support for the proposed regulatory changes to accommodate the statutory amendment to NAHASDA regarding operating and modernization funding for tribes that owned or operated fewer than 250 units. Five commenters, although acknowledging that the regulatory changes were statutorily based, wrote that the statutory amendment is unfair to those tribes that did not receive the one-time competitive modernization grant in 1997. One commenter requested clarification regarding the effect of the regulatory change for Indian tribes that had more than 250 units on October 1, 1997.

*Response:* The rule has not been revised in response to these comments. As the commenters acknowledged, the regulatory change conforms the IHBG regulations to the statutory language of section 302(d)(1)(B) of NAHASDA. In response to the commenter requesting additional clarification, the statutory change does not affect the calculation of operating and modernization funding for Indian tribes that had more than 250 units on October 1, 1997.

*Comments regarding small programs/minimum funding.* The February 25, 2005, rule proposed numerous revisions to the minimum funding provisions at § 1000.328. Among other changes, the rule proposed to remove the current provisions regarding the minimum IHBG Formula Need allocation for an Indian tribe in its first year of participation in the IHBG program. The rule also proposed to revise the minimum formula allocation an Indian tribe will receive under the Need component of the IHBG Formula after its first year of participation in the program. The February 25, 2005, proposed rule also proposed new eligibility requirements for minimum funding.

Thirty-four comments offered support for the revised minimum funding provisions, and 28 of these commenters recommended that the provisions be adopted without change. Five commenters wrote that the minimum funding provisions will not provide small tribes with adequate funds to meaningfully address their housing needs. These commenters recommended that FCAS should not be considered in providing minimum funding, as these funds go toward maintenance of existing housing and do not address the unmet need for housing assistance. These commenters also objected to the requirement that the Indian tribe demonstrate a need for the minimum funding, writing that this requirement is unnecessary and duplicative because each tribe's IHP already contains a statement of needs.

*Response:* The rule has not been revised in response to these comments. As noted in the preamble to the proposed rule, the minimum funding provision provides for a minimum needs allocation of $50,000 based on current IHBG appropriations. The Committee continues to believe that this provision is fair to all Indian tribes while helping to ensure an adequate minimum level of funding for smaller tribes. With regard to the eligibility requirements, the Committee concluded they are necessary to ensure that the minimum funding provisions benefit Indian tribes that would otherwise be unable to provide even minimal housing services and that have a demonstrated need for such services. The requirement is not duplicative because tribes will demonstrate the presence of any households at or below 80 percent of median income only in the IHP.

*Comments regarding the adjustment of the Need variables using birth and death rate data.* Section 1000.330 describes the data sources used for the Need component. The February 25, 2005, rule proposed to revise this section to codify existing procedures by specifying that the data for the Need variables shall be adjusted annually beginning the year after the Need data is collected, using Indian Health Service projections based upon birth and death rate data as provided by the National Center for Health Statistics.

Twenty-eight commenters wrote in support of the consensus position on birth and death rates. Five commenters wrote that, while death and birth rates are a fair method to adjust the Need component, it should be the responsibility of the tribes to report annual enrollment certification instead of HUD.

*Response:* The birth and death rate provision has been adopted without change. As noted, the regulatory change codifies an existing procedure that both Indian tribes and HUD have determined works effectively and fairly in adjusting the Formula Need component for birth and death rates. Procedures at § 1000.336 have also been revised to include challenges of birth and death rate data used in computing Indian Health Service projections.

*Comments regarding data challenges and appeals of HUD formula determinations.* The September 25, 2005, rule proposed to clarify and elaborate upon existing § 1000.336, which describes the procedures that an Indian tribe, tribally designated housing entities (TDHE), and HUD may use to challenge data. Under the proposed rule, § 1000.336 would continue to authorize data challenges, but also provide for appeal of certain HUD formula determinations. Thirty-four commenters wrote in support of the proposed rule provisions regarding data challenges and appeals. However, five commenters objected to the use of U.S. Census data to determine need.

*Response:* The consensus position as described in the proposed rule remains unchanged in the final rule. The Committee appreciates the support expressed by the majority of comments on this provision, and believes that the new regulatory language will assist both tribes and HUD by clarifying the policies and procedures for challenging data and appealing formula determinations.

*C. Comments Regarding Nonconsensus Items*

*Comments regarding formula median income.* During negotiations, the Committee considered removing the definition of ''formula median income'' used in calculating the Need component of the IHBG Formula and, in its place, using the definition of ''median income'' provided under section 4 of NAHASDA. The Committee was unable to reach consensus on this issue and therefore a regulatory change was not contained in the February 25, 2005, proposed rule.

A majority of commenters requested that the Committee revisit the issue. Twenty-nine commenters explained that there was not enough time to properly address the issue during the negotiations. They wrote that the use of two separate definitions of median income (one for the formula and the other for use elsewhere in the IHBG regulations) was confusing and contradictory to the intent of NAHASDA. The commenters also wrote that the formula definition unfairly results in some Indian tribes not receiving IHBG funding for low-income Indian families who must be served by the tribe.

*Response:* No change has been made to the rule in response to these comments. As noted above and discussed in detail in the preamble to the proposed rule, the Committee could

not reach consensus on whether to revise the definition of formula median income. Because decision-making during the negotiated rulemaking process was based on consensus, the absence of consensus on formula median income, even after full consideration of public comments, precluded the Committee from adopting the changes proposed by the commenters. Moreover, such a revision would not have been appropriate at this final rule stage, as it would require additional notice and public comment.

*Comments regarding the Section 8 inflation factor.* During negotiations on the proposed rule, the Committee considered various proposals to remove the inflation adjustment factor for Section 8 units in calculating FCAS, but was unable to reach consensus on a regulatory change. There were several comments received that made suggestions outside the scope of the proposed rule. Specifically, five commenters suggested that the regulations be revised to provide that as an individual Section 8 voucher expires, the associated funding be placed in a ''pot'' in the same way as other FCAS are conveyed. One commenter raised an objection to the statutory language of section 502(a) of NAHASDA, which, according to the commenter, effectively includes Section 8 assistance to be treated as FCAS.

*Response:* The rule has not been revised in response to these comments. This was an item on which the Committee was unable to reach consensus. Further, the change recommended by the commenters could not be made at this final rule stage without additional notice and comment rulemaking. The comment objecting to section 502(a) of NAHASDA pertains to statutory language that may be revised only through legislative amendment.

*Comments regarding substantial noncompliance.* Section 1000.534 of the IHBG program regulations describes those tribal actions that constitute substantial noncompliance with IHBG program requirements. As explained in § 1000.538, HUD may take certain actions against an Indian tribe that has failed to comply substantially with the IHBG program requirements, but only after reasonable notice and opportunity for a hearing conducted in accordance with 24 CFR part 24. The Committee considered expanding the actions deemed to constitute substantial noncompliance and, therefore, entitle the Indian tribe to a formal hearing prior to any reduction or adjustment of its IHBG grant. During negotiations, there were two objections to the proposed expansion of substantial noncompliance and, therefore, consensus was not reached on this proposal. Several commenters expressed concern on the failure of the Committee to find consensus on the proposal to amend §§ 1000.534 and 1000.538.

*Response:* No change has been made to the rule in response to these comments. As noted above, the Committee could not reach consensus on whether to revise the regulatory provisions concerning substantial noncompliance. Because the negotiated rulemaking process required consensus and because consensus was not reached on this item, the Committee did not adopt the changes recommended by the commenters. Moreover, such revisions would not be appropriate at this final rule stage because they would require additional notice and opportunity for public comment.

*Comments regarding the replacement of the Allowable Expense Level (AEL).* The IHBG Formula currently uses an adjustment factor known as the Allowable Expense Level (AEL), which serves as a substitute measurement of geographic and other differences in the monthly per-unit operating costs incurred by an Indian tribe to operate Current Assisted Stock. During negotiations, some members of the Committee expressed dissatisfaction with the AEL, stating that it is not reflective of the true costs of operating affordable housing units and that individual AEL levels were often inaccurately calculated. Other Committee members, however, felt that general use of the AEL is an acceptable method for allocating IHBG operating funds among the Indian tribes but that individual AEL determinations should be subject to challenge by individual Indian tribes. The Committee was unable to reach consensus on this issue and, therefore, a regulatory change was not contained in the February 25, 2005, proposed rule. HUD agreed to a study of the use of the AEL. This Indian housing cost study is currently underway. Twenty-nine commenters submitted comments regarding possible changes to the AEL, but were divided in their opinions. Some of the commenters were concerned about the failure of the Committee to find consensus on AEL and expressed support for changes through legislation or future regulatory changes. Others supported the continued use of AEL as an adjustment factor to account for the higher costs associated with differing geographic locations.

*Response:* No change has been made to the rule in response to the comments. As noted, the Committee was unable to reach consensus on a proposed regulatory change and, therefore, did not adopt the commenters' suggested change in this final rule. Accordingly, a revision to the AEL would not be appropriate at this final rule stage, since it would require additional notice and public comment.

*Comments regarding the use of multi-race U.S. Census data.* In calculating the Need component, pursuant to § 1000.330, HUD uses U.S. Census population data. The 2000 U.S. Census reported for the first time both those persons who identify themselves solely as American Indian/Alaska Native (AIAN) and those who also identify with another race. HUD made the determination to use the 2000 Census data. HUD's current calculation of the Need component incorporates all persons who identify as AIAN, without regard to whether they also identify as another race. During the negotiations for the proposed rule, proponents of using this data stated that the use of single-race data does not reflect the best available information and would exclude some persons who identified as multi-race and are eligible to be served under NAHASDA. Other Committee members, however, expressed objections to the use of this multi-race data, stating that the purpose of NAHASDA, which is to assist Native Americans, would be better served by limiting the population data to those persons designating themselves as being solely AIAN. The Committee was unable to reach consensus on this issue and, therefore, a regulatory change was not contained in the February 25, 2005, proposed rule. Thirty-four commenters opposed the use of multi-race Census data and urged the Committee to revisit this issue. The tribes stated that the change to multi-race data has the effect of drastically increasing some tribes' funding and decreasing that of others. In particular, one commenter wrote that the use of multi-race data would shift funding from traditional Native Villages to more urban areas. Several commenters suggested a compromise position providing for calculation of the Need component based on the average of individuals designating themselves solely as AIAN and the number of persons also designating themselves as belonging to other racial categories. One commenter suggested that tribal enrollment criteria should be used as the determining factor where eligibility is in question. Four commenters wrote in support of the multi-race Census data. One of these commenters stated that tribal members can be more than one race provided they meet the criteria established by the tribe. Two

commenters wrote that not using multi-race data would result in undercounting of tribal membership. Another commenter offered general support for the use of multi-race Census data in the IHBG allocation formula.

*Response:* The rule has not been revised in response to these comments. As discussed above, the Committee was unable to reach consensus on the issue of multi-race data and, therefore, a regulatory change at this final rule stage would be inappropriate without advance notice and the opportunity for public comment. Further, Senate Report 109–109 accompanying the Fiscal Year 2006 HUD Appropriations Act (Pub. L. 109–115; approved November 30, 2005) provides for HUD to reassess, using notice and comment rulemaking procedures, its decision to use multi-race data. Consistent with the language of the Senate Report, on December 12, 2006, HUD published a notice in the **Federal Register** (71 FR 74748) that solicited public comment on the use of multi-race data in the computation of the IHBG allocation formula.

## IV. Findings and Certifications

*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 an economically significant action, as provided under section 3(f)(1) of the Order). The docket file 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 advance appointment to review the docket file by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

*Paperwork Reduction Act*

The information collection requirements contained in this proposed rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2577–0218. In accordance with the Paperwork Reduction Act, 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 currently valid OMB control number.

*Environmental Impact*

A Finding of No Significant Impact (FONSI) with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). That FONSI remains applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays 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 advance appointment to review the FONSI by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

*Regulatory Flexibility Act*

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 rule would not impose substantive new requirements on Indian tribes. Rather, the rule addresses those areas of the IHBG Formula that HUD and Indian tribal representatives determined require clarification, are outdated, or are not operating as intended. Moreover, HUD negotiated the amendments contained in this final rule with representatives of Indian tribes, and the rule reflects the consensus decisions reached by HUD and its tribal negotiating partners on the best way to address the required changes to the IHBG Formula. The potential burden of the regulatory changes on Indian tribes was considered and addressed as part of the negotiated rulemaking process. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and on the private sector. This rule does not impose any federal mandate on state, local, or tribal governments, or on the private sector within the meaning of UMRA.

*Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance number for the IHBG program is 14.867.

**List of Subjects in 24 CFR Part 1000**

Aged, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

■ Accordingly, for reasons discussed in the preamble, HUD amends 24 CFR part 1000 as follows:

## PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

■ 1. The authority citation for 24 CFR part 1000 continues to read as follows:

**Authority:** 25 U.S.C. 4101 *et seq.*; 42 U.S.C. 3535(d).

■ 2. In § 1000.302, revise the definition of ''*Formula Area*'' and add, in alphabetical order, definitions of the terms ''*National Per Unit Subsidy*'' and ''*Substantial Housing Services*'' to read as follows:

**§ 1000.302 What are the definitions applicable to the IHBG formula?**

* * * * *

*Formula area.* (1) Formula areas are:

(i) Reservations for federally recognized Indian tribes, as defined by the U.S. Census;

(ii) Trust lands;

(iii) Department of the Interior Near-Reservation Service Areas;

(iv) Former Indian Reservation Areas in Oklahoma Indian Areas, as defined by the U.S. Census as Oklahoma Tribal Statistical Areas (OTSAs);

(v) Congressionally Mandated Service Areas;

(vi) State Tribal Areas as defined by the U.S. Census as State Designated American Indian Statistical Areas (SDAISAs);

(vii) Tribal Designated Statistical Areas (TDSAs);

(viii) California Tribal Jurisdictional Areas established or reestablished by federal court judgment; and

(ix) Alaska formula areas described in paragraph (4) of this definition.

(2)(i) For a geographic area not identified in paragraph (1) of this definition, and for expansion or re-definition of a geographic area from the prior year, including those identified in paragraph (1) of this definition, the Indian tribe must submit, on a form agreed to by HUD, information about the geographic area it wishes to include in

its Formula Area, including proof that the Indian tribe, where applicable, has agreed to provide housing services pursuant to a Memorandum of Agreement (MOA) with the tribal and public governing entity or entities of the area, or has attempted to establish such an MOA; and either:

(A) Could exercise court jurisdiction; or

(B) Is providing substantial housing services and will continue to expend or obligate funds for substantial housing services, as reflected in the form agreed to by HUD for this purpose.

(ii) Upon receiving a request for recognition of a geographic area not identified in paragraph (1) of this definition, HUD shall make a preliminary determination. HUD shall notify all potentially affected Indian tribes of the basis for its preliminary determination by certified mail and provide the Indian tribes with the opportunity to comment for a period of not less than 90 days. After consideration of the comments, HUD shall announce its final determination through **Federal Register** notice.

(iii) No Indian tribe may expand or redefine its Formula Area without complying with the requirements of paragraphs (2)(i) and (ii) of this definition, notwithstanding any changes recognized by the U.S. Census Bureau.

(iv) The geographic area into which an Indian tribe may expand under this paragraph (2) shall be the smallest U.S. Census unit or units encompassing the physical location where substantial housing services have been provided by the Indian tribe.

(3) Subject to a challenge by an Indian tribe with a Formula Area described under paragraph (1)(iv) of this definition, any federally recognized Indian tribe assigned Formula Area geography in Fiscal Year 2003 not identified in paragraphs (1) and (2) of this definition, shall continue to be assigned such Formula Area in subsequent fiscal years, provided that the Indian tribe continues to provide an appropriate level of housing services within the Formula Area as monitored by HUD using the definition of substantial housing services contained in this section as a guideline but not as a requirement.

(4) Notwithstanding paragraphs (1), (2), and (3) of this definition, Alaska needs data shall be credited as set forth in § 1000.327 to the Alaska Native Village (ANV), the regional Indian tribe, or to the regional corporation established pursuant to the Alaska Native Claims Settlement Act (33 U.S.C. 1601 *et seq.*) (ANCSA). For purposes of § 1000.327 and this definition:

(i) The formula area of the ANV shall be the geographic area of the village or that area delineated by the TDSA established for the ANV for purposes of the 1990 U.S. Census or the Alaska Native Village Statistical Area (ANVSA) established for the ANV. To the extent that the area encompassed by such designation may substantially exceed the actual geographic area of the village, such designation is subject to challenge pursuant to § 1000.336. If the ANVSA or the TDSA is determined pursuant to such challenge to substantially exceed the actual area of the village, then the geographic formula area of the ANV for purposes of § 1000.327 shall be such U.S. Census designation as most closely approximates the actual geographic area of the village.

(ii) The geographic formula area of the regional corporation shall be the area established for the corporation by the ANCSA.

(iii) An Indian tribe may seek to expand its Alaska formula area within its ANCSA region pursuant to the procedures set out in paragraph (2) of this definition. Formula Area added in this way shall be treated as overlapping pursuant to § 1000.326, unless the Indian tribe's members in the expanded area are less than 50 percent of the AIAN population. In cases where the Indian tribe is not treated as overlapping, the Indian tribe shall be credited with population and housing data only for its own tribal member residents within the new or added area. All other population and housing data for the area shall remain with the Indian tribe or tribes previously credited with such data.

(5) In some cases the population data for an Indian tribe within its Formula Area is greater than its tribal enrollment. In general, to maintain fairness for all Indian tribes, the tribe's population data will not be allowed to exceed twice an Indian tribe's enrolled population. However, an Indian tribe subject to this cap may receive an allocation based on more than twice its total enrollment if it can show that it is providing housing assistance to substantially more non-member Indians and Alaska Natives who are members of another federally recognized Indian tribe than it is to members. For state-recognized Indian tribes, the population data and formula allocation shall be limited to their tribal enrollment figures as determined under enrollment criteria in effect in 1996.

(6) In cases where an Indian tribe is seeking to receive an allocation more than twice its total enrollment, the tribal enrollment multiplier will be determined by the total number of Indians and Alaska Natives to whom the Indian tribe is providing housing assistance (on July 30 of the year before funding is sought) divided by the number of members to whom the Indian tribe is providing housing assistance. For example, an Indian tribe that provides housing to 300 Indians and Alaska Natives, of which 100 are members, the Indian tribe would then be able to receive an allocation for up to three times its tribal enrollment if the Indian and Alaska Native population in the area is three or more times the tribal enrollment.

* * * * *

*National per unit subsidy* is the Fiscal Year 1996 national per unit subsidy (adjusted to full funding level) multiplied by an adjustment factor for inflation.

* * * * *

*Substantial housing services* are:

(1) Affordable housing activities funded from any source provided to AIAN households with incomes 80 percent of the median income as defined in NAHASDA (25 U.S.C. 4103 (14)) or lower, equivalent to 100 percent or more of the increase in the IHBG formula allocation that the Indian tribe would receive as a result of adding the proposed geography; or

(2) Affordable housing activities funded with IHBG funds provided to AIAN households with incomes 80 percent of the median income as defined in NAHASDA (25 U.S.C. 4104(14)) or lower, equivalent to 51 percent or more of the Indian tribe's current total IHBG grant; and either:

(i) Fifty-one percent or more of the Indian tribe's official enrollment resides within the geographic area; or

(ii) The Indian tribe's official enrollment constitutes 51 percent or more of the total AIAN persons within the geography.

(3) HUD shall require that the Indian tribe annually provide written verification, on a form approved by HUD, that the affordable housing activities it is providing meet the definition of substantial housing services.

* * * * *

■ 3. Revise § 1000.306(b) to read as follows:

**§ 1000.306 How can the IHBG Formula be modified?**

* * * * *

(b) The IHBG Formula shall be reviewed not later than May 21, 2012 to determine if a subsidy is needed to operate and maintain NAHASDA units or if any other changes are needed in respect to funding under the Formula

Current Assisted Stock component of the formula.

* * * * *

■ 4. Add § 1000.315 to read as follows:

**§ 1000.315 Is a recipient required to report changes to the Formula Current Assisted Stock (FCAS) on the Formula Response Form?**

(a) A recipient shall report changes to information related to the IHBG formula on the Formula Response Form, including corrections to the number of Formula Current Assisted Stock (FCAS), during the time period required by HUD. This time period shall be not less than 60 days from the date of the HUD letter transmitting the form to the recipient.

(b) The Formula Response Form is the only mechanism that a recipient shall use to report changes to the number of FCAS.

■ 5. In § 1000.316, revise paragraphs (a)(1), (a)(2), and (a)(3) and paragraph (b) to read as follows:

**§ 1000.316 How is the Formula Current Assisted Stock (FCAS) Component developed?**

* * * * *

(a) * * *

(1) The number of low-rent FCAS units multiplied by the national per unit subsidy;

(2) The number of Section 8 units whose contract has expired but had been under contract on September 30, 1997, multiplied by the FY 1996 national per unit subsidy; and

(3) The number of Mutual Help and Turnkey III FCAS units multiplied by the national per unit subsidy.

(b) *Modernization allocation.* (1) For Indian tribes with an Indian Housing Authority that owned or operated 250 or more public housing units on October 1, 1997, the modernization allocation equals the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per-unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation.

(2) For Indian tribes with an Indian Housing Authority that owned or operated fewer than 250 public housing units on October 1, 1997, the modernization allocation equals the average amount of funds received under the assistance program authorized by section 14 of the 1937 Act (not including funds provided as emergency assistance) for FYs 1992 through 1997.

■ 6. Add § 1000.319 to read as follows:

**§ 1000.319 What would happen if a recipient misreports or fails to correct Formula Current Assisted Stock (FCAS) information on the Formula Response Form?**

(a) A recipient is responsible for verifying and reporting changes to their Formula Current Assisted Stock (FCAS) on the Formula Response Form to ensure that data used for the IHBG Formula are accurate (see § 1000.315). Reporting shall be completed in accordance with requirements in this Subpart D and the Formula Response Form.

(b) If a recipient receives an overpayment of funds because it failed to report such changes on the Formula Response Form in a timely manner, the recipient shall be required to repay the funds within 5 fiscal years. HUD shall subsequently distribute the funds to all Indian tribes in accordance with the next IHBG Formula allocation.

(c) A recipient will not be provided back funding for any units that the recipient failed to report on the Formula Response Form in a timely manner.

(d) HUD shall have 3 years from the date a Formula Response Form is sent out to take action against any recipient that fails to correct or make appropriate changes on that Formula Response Form. Review of FCAS will be accomplished by HUD as a component of A–133 audits, routine monitoring, FCAS target monitoring, or other reviews.

■ 7. Revise § 1000.326(b) to read as follows:

**§ 1000.326 What if a formula area is served by more than one Indian tribe?**

* * * * *

(b) Tribal membership in the geographic area (not to include dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use. Suggested data sources include tribal enrollment lists, the U.S. Census, Indian Health Service User Data, and Bureau of Indian Affairs data.

* * * * *

■ 8. Revise § 1000.328 to read as follows:

**§ 1000.328 What is the minimum amount that an Indian tribe may receive under the need component of the formula?**

(a) Subject to the eligibility criteria described in paragraph (b) of this section, the minimum allocation in any fiscal year to an Indian tribe under the need component of the IHBG Formula shall equal 0.007826 percent of the available appropriations for that fiscal year after set asides.

(b) To be eligible for the minimum allocation described in paragraph (a) of this section, an Indian tribe must:

(1) Receive less than $200,000 under the FCAS component of the IHBG Formula for the fiscal year; and

(2) Demonstrate the presence of any households at or below 80 percent of median income.

■ 9. In § 1000.330, revise the heading and designate the existing text of paragraph (a) and add new paragraphs (b) and (c) to read as follows:

**§ 1000.330 What are the data sources for the need variables?**

* * * * *

(b) The data for the need variables shall be adjusted annually beginning the year after the need data is collected, using Indian Health Service projections based upon birth and death rate data as provided by the National Center for Health Statistics.

(c) Indian tribes may challenge the data described in paragraphs (a) and (b) of this section pursuant to § 1000.336.

■ 10. Revise § 1000.336 to read as follows:

**§ 1000.336 How may an Indian tribe, TDHE, or HUD challenge data or appeal HUD formula determinations?**

(a) An Indian tribe, TDHE, or HUD may challenge data used in the IHBG Formula and HUD formula determinations regarding:

(1) U.S. Census data;

(2) Tribal enrollment;

(3) Formula area;

(4) Formula Current Assisted Stock (FCAS);

(5) Total Development Cost (TDC);

(6) Fair Market Rents (FMRs); and

(7) Indian Health Service projections based upon birth and death rate data provided by the National Center for Health Statistics.

(b) An Indian tribe or TDHE may not challenge data or HUD formula determinations regarding Allowable Expense Level (AEL) and the inflation factor.

(c) The challenge and the collection of data and the appeal of HUD formula determinations is an allowable cost for IHBG funds.

(d) An Indian tribe or TDHE that seeks to appeal data or a HUD formula determination, and has data in its possession that are acceptable to HUD, may submit the data and proper documentation to HUD. Data used to challenge data contained in the U.S. Census must meet the requirements described in § 1000.330(a). Further, in order for a census challenge to be considered for the upcoming fiscal year allocation, documentation must be submitted by March 30th.

(e) HUD shall respond to all challenges or appeals not later than 45 days after receipt and either approve or deny the validity of such data or challenge to a HUD formula determination in writing, setting forth the reasons for its decision. Pursuant to HUD's action, the following shall apply:

(1) In the event HUD challenges the validity of the submitted data, the Indian tribe or TDHE and HUD shall attempt in good faith to resolve any discrepancies so that such data may be included in the formula allocation.

(2) Should the Indian tribe or TDHE and HUD be unable to resolve any discrepancy within 30 calendar days of receipt of HUD's denial, the Indian tribe or TDHE may request reconsideration of HUD's denial in writing. The request shall set forth justification for reconsideration.

(3) Within 20 calendar days of receiving the request, HUD shall reconsider the Indian tribe or TDHE's submission and either affirm or reverse its initial decision in writing, setting forth HUD's reasons for the decision.

(4) Pursuant to resolution of the dispute:

(i) If the Indian tribe or TDHE prevails, an adjustment to the Indian tribe's or TDHE's subsequent allocation for the subsequent year shall be made retroactive to include only the disputed fiscal year(s); or

(ii) If HUD prevails, it shall issue a written decision denying the Indian tribe or TDHE's petition for reconsideration, which shall constitute final agency action.

(f) In the event HUD questions that the data contained in the formula does not accurately represent the Indian tribe's need, HUD shall request the Indian tribe to submit supporting documentation to justify the data and to provide a commitment to serve the population indicated in the geographic area.

■ 11. Revise § 1000.340 to read as follows:

**§ 1000.340 What if an Indian tribe is allocated less funding under the IHBG Formula than it received in Fiscal Year (FY) 1996 for operating subsidy and modernization?**

(a) If an Indian tribe is allocated less funding under the modernization allocation of the formula pursuant to § 1000.316(b)(2) than the calculation of the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per-unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation, the Indian tribe's modernization allocation is calculated under § 1000.316(b)(1). The remaining grants are adjusted to keep the allocation within available appropriations.

(b) If an Indian tribe is allocated less funding under the formula than an IHA received on its behalf in FY 1996 for operating subsidy and modernization, its grant is increased to the amount received in FY 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.

■ 12. Revise Appendices A and B to part 1000 to read as follows:

## APPENDIX A TO PART 1000—INDIAN HOUSING BLOCK GRANT FORMULA MECHANICS

This appendix shows the different components of the IHBG formula. The following text explains how each component of the IHBG formula is calculated.

1. The Indian Housing Block Grant (IHBG) formula is calculated by initially determining the amount a tribe receives for Formula Current Assisted Stock (FCAS) (See §§ 1000.310 and 1000.312). FCAS funding is comprised of two components, Operating subsidy (§ 1000.316(a)) and Modernization (§ 1000.316(b)).

2. The operating subsidy component is calculated based on the national per unit subsidy (§ 1000.302 National Per Unit Subsidy) for operations for each of the following types of programs—Low Rent, Homeownership (Mutual Help and Turnkey III), and Section 8. A tribe's total count of units in each of the above categories is multiplied by the relevant national per unit subsidy. That amount is summed and multiplied by a local area cost adjustment factor for management.

3. The local area cost adjustment factor for management is called AELFMR. AELFMR is the greater of a tribe's Allowable Expense Level (AEL) or Fair Market Rent (FMR) factor, where the AEL and FMR factors are determined by dividing each tribe's AEL and FMR by their respective national weighted average (weighted on the unadjusted allocation under FCAS operating subsidy). The adjustment made to the FCAS component of the IHBG formula is then the new AELFMR factor divided by the national weighted average of the AELFMR (See § 1000.320).

4. The Modernization component is determined using two methods depending on the number of public housing units that a tribe's housing authority operated prior to NAHASDA.

(a) For Indian tribes with an Indian housing authority (IHA) that owned or operated 250 or more public housing units on October 1, 1997, the modernization allocation equals the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per-unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation (See § 1000.316(b)(1)).

(b) For Indian tribes with an IHA that owned or operated fewer than 250 units on October 1, 1997, the modernization allocation equals the average amount of funds received under the assistance program authorized by section 14 of the 1937 Act (not including funds provided as emergency assistance) for FYs 1992 through 1997 (See § 1000.316(b)(2)).

(c) The modernization amount is then multiplied times a local area cost adjustment factor for construction, the TDC. The construction adjustment factor is the TDC for the area divided by the weighted national average for TDC (weighted on the unadjusted allocation for modernization (See § 1000.320).

5. After determining the total amount allocated under FCAS for each tribe, it is summed for every tribe. The national total amount for FCAS is subtracted from the remaining available funds to determine the total amount to be allocated under the Need component of the IHBG formula.

6. The Need component of the IHBG formula is calculated using seven factors using data from sources defined in § 1000.330 weighted as set forth in § 1000.324 as follows: 22 percent of the allocated funds will be allocated by a tribe's share of the total Native American households paying more than 50 percent of their income for housing and living in the Indian tribe's formula area, 25 percent of the funds allocated under Need will be allocated by a tribe's share of the total Native American households overcrowded and/or without kitchen or plumbing living in their formula area, and so on. The current national totals for each of the need variables will be distributed annually by HUD with the Formula Response Form (See § 1000.332). The national totals will change as tribes update information about their formula area and data for individual areas are challenged (See §§ 1000.334 and 1000.336). The Need component is then calculated by multiplying a tribe's share of housing need by a local area cost adjustment factor for construction (the TDC) (See § 1000.338).

7. Tribes that receive less than $200,000 under the FCAS component of the IHBG formula and that can demonstrate the presence of any households at or below 80 percent of median income are guaranteed to receive no less than a specified minimum under the Needs component of the formula. The specified minimum amount shall equal .007826 percent of the available appropriations for that FY after set asides. The increase in funding for the tribes receiving the minimum need amount is funded by a reallocation from other tribes whose needs allocation exceeds the minimum need amount. This is necessary in order to keep the total allocation within the appropriation level (See § 1000.328).

8. A tribe's preliminary grant is calculated by summing the FCAS and Need allocations. This amount is subject to two final adjustments:

(a) If an Indian tribe with an IHA that owned or operated fewer than 250 units on October 1, 1997, is allocated less funding under the averaging method (§ 1000.316(b)(2)) than the calculation of the number of Low Rent, Mutual Help, and Turnkey III FCAS multiplied by the national

per-unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation, the Indian tribe's modernization allocation is calculated under § 1000.316(b)(1). The grants of all other tribes are proportionately adjusted to keep the allocation within available appropriations.

(b) Next, this preliminary grant is compared to how much a tribe received in FY 1996 for operating subsidy and modernization. If a tribe received more in FY 1996 for operating subsidy and modernization than it does under the IHBG formula allocation, its grant is adjusted up to the FY 1996 level (See § 1000.340(b)). Indian tribes receiving more under the IHBG formula than in FY 1996 ''pay'' for the upward adjustment for the other tribes by having their own grants adjusted downward. Because many more Indian tribes have grant amounts above the FY 1996 level than those with grants below the FY 1996 level, each tribe contributes very little, relative to their total grant, to fund the adjustment.

## Appendix B to Part 1000—IHBG Block Grant Formula Mechanisms

1. The Indian Housing Block Grant (IHBG) formula consists of two components, the Formula Current Assisted Stock (FCAS) and Need. Therefore, the formula allocation before adjusting for the statutory requirement that a tribe's minimum grant will not be less than the tribe's Fiscal Year (FY) 1996 Operating Subsidy and Modernization funding, can be represented by:

unadjGRANT = FCAS + NEED.

2. NAHASDA requires that the FCAS be provided for before allocating funds based on need. Therefore, FCAS must be calculated first. FCAS consists of two components, Operating Subsidy (OPSUB) and Modernization (MOD), such that:

FCAS = OPSUB + MOD.

3. OPSUB consists of three main parts: number of Low-Rent units; number of Section 8 units; and number of Mutual Help and Turnkey III units. Each of these main parts are adjusted by the national per unit subsidy (§ 1000.302 National Per Unit Subsidy) and local area costs as reflected by the greater of the AEL factor or FMR factor. The AEL factor is defined in § 1000.302 as the relative difference between a local area Allowable Expense Level (AEL) and the national weighted average for AEL (NAEL). The FMR factor is also defined in § 1000.302 as the relative difference between a local area Fair Market Rent (FMR) and the national weighted average for FMR.

OPSUB = [LR * LRSUB + (MH+TK) * HOSUB + S8 * S8SUB ] * AELFMR

Where:

LR = number of Low-Rent units.
LRSUB = national per unit subsidy for Low-Rent units ($2,440*INF).
MH+TK = number of Mutual Help and Turnkey III units.
HOSUB = national per unit subsidy for Homeownership units ($528*INF).
S8 = number of Section 8 units.
S8SUB = national per unit subsidy for Section 8 units = ($3,625*INF).
AELFMR = greater of AEL Factor or FMR Factor weighted by national average of AEL Factor and FRM Factor.
AEL FACTOR = AEL/NAEL.
AEL = local Allowable Expense Level.
NAEL = national weighted average for AEL.
FMR FACTOR = FMR/NFMR.
FMR = local Fair Market Rent.
NFMR = national weighted average for FMR.
NAELFMR = national weighted average for greater of AEL Factor or FMR factor.

Where:

INF = adjustment for inflation since 1995, as determined by the Consumer Price Index for housing.

4. The modernization component, MOD, is calculated by two different methods, depending on whether the tribe had an Indian housing authority (IHA) that owned or operated more than 250 public housing units on October 1, 1997.

a. MOD1996 is calculated for all tribes and considers the number of Low-Rent, and Mutual Help and Turnkey III FCAS units. Each of these is adjusted by the national per-unit modernization amount in 1996 adjusted for inflation.

MOD1996 = [LR + MH+TK] *MODPU *INF.

Where:

LR = number of Low-Rent units.
MH = number of Mutual Help units.
TK = number of Turnkey III units.
MODPU = national per-unit amount for modernization in 1996 ($1,974).
INF = adjustment for inflation since 1995, as determined by the Consumer Price Index for housing.

b. MODAVG is calculated only for tribes that had an IHA that owned or operated fewer than 250 public housing units on October 1, 1997, as the annual average amount they received for FYs 1992 through 1997 under the assistance program authorized by section 14 of the 1937 Act (not including emergency assistance).

MODAVG = Average (FY 1992 to FY 1997) amount received by Section 14 of the 1937 Act.

c. For Indian tribes with an IHA that owned or operated 250 or more public housing units on October 1, 1997, the modernization calculation is based on MOD1996, adjusted for local area costs:

MOD = MOD1996* TDC/NTDC.

Where:

TDC = Local Total Development Costs defined in § 1000.302.
NTDC = weighted national average for TDC of tribes with CAS.

d. For Indian tribes with an IHA that owned or operated fewer than 250 units on October 1, 1997, the modernization calculation is based on MODAVG, adjusted for local area costs.

MOD = MODAVG* TDC/NTDC.

5. Now that calculation for FCAS is complete, funds available for allocation using the Need component of the formula can be determined:

NEED FUNDS = APPROPRIATION − NATCAS.

Where:

APPROPRIATION = dollars provided for distribution through the IHBG formula.
NATCAS = National summation of FCAS allocation for all tribes.

6. Two iterations are necessary to compute the final Need allocation. The first iteration consists of seven weighted criteria that allocate need funds based on a tribe's population and housing data. This allocation is then adjusted for local area cost differences based on TDC relative to the national weighted average. This can be represented by:

NEED1 = [(0.11 * PER / NPER) + (0.13 * HHLE30 / NHHLE30) + (0.07 * HH30T50 / NHH30T50) + (0.07 * HH50T80 / NHH50T80) + (0.25 * OCRPR / NOCRPR) + (0.22 * SCBTOT / NSCBTOT) + (0.15 * HOUSHOR / NHOUSHOR)] * NEED FUNDS * (TDC/NATDC).

Where:

PER = American Indian and Alaskan Native (AIAN) persons.
NPER = national total of PER.
HHLE30 = AIAN households less than 30% of median income.
NHHLE30 = national total of HHLE30.
HH30T50 = AIAN households 30% to 50% of median income.
NHH30T50 = national total of HH30T50.
HH50T80 = AIAN households 50% to 80% of median income.
NHH50T80 = national total of HH50T80.
OCRPR = AIAN households crowded or without complete kitchen or plumbing.
NOCRPR = national total of OCRPR.
SCBTOT = AIAN households paying more than 50% of their income for housing.
NSCBTOT = national total SCBTOT.
HOUSHOR = AIAN households with an annual income less than or equal to 80% of formula median income reduced by the combination of current assisted stock and units developed under NAHASDA.
NHOUSHOR = national total of HOUSHOR.
TDC = Local Total Development Costs defined in § 1000.302.
NATDC = weighted national average for TDC of tribes with need.

7. The second iteration in computing the Need allocation consists of adjusting the Need allocation computed above to take into account the minimum needs provision. Tribes that receive less than $200,000 under the FCAS component of the IHBG formula and that can demonstrate the presence of any households at or below 80 percent of median income are guaranteed to receive no less than a specified minimum amount under the Needs component of the formula. The specified minimum amount shall equal .007826 percent of the available appropriations for that fiscal year after set asides.

MINFUNDING = APPROPRIATION* .00007826

If in the first Need computation, a qualified tribe is allocated less than the minimum Needs funding level, its Need allocation will go up. Other tribes whose Needs allocations are greater than the minimum needs amount will have their allocations adjusted downward to keep the total allocation within available funds:

If NEED1 < MINFUNDING and FCAS < $200,000 and (HHLE30 + HH30T50 + HH50T80) > 0, then NEED 2 = MINFUNDING.

If NEED1 > = MINFUNDING, then NEED2 = NEED1 − {UNDERMIN$ * [(NEED1 − MINFUNDING) / OVERMIN$]}.

Where:

MINFUNDING = minimum needs amount

UNDERMIN$ = for all tribes qualifying for an increase under the minimum needs provision, sum of the differences between MINFUNDING and NEED1.

OVERMIN$ = for all tribes with needs allocations larger than the minimum needs amount, the sum of the difference between NEED1 and MINFUNDING.

8. The next step is to compute a preliminary unadjusted grant allocation (unadjGRANT) that will serve as the basis for further adjustments called for in § 1000.340.

unadjGRANT = FCAS + NEED, where both FCAS and NEED are calculated above.

9. As required by § 1000.340(a), if an Indian tribe with an IHA that owned or operated fewer than 250 units on October 1, 1997, is allocated less funding under the averaging method (§ 1000.316(b)(2)) than the calculation of the number of Low-Rent, Mutual Help, and Turnkey III FCAS is multiplied by the national per-unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation, then, the Indian tribe's modernization allocation is calculated under § 1000.316(b)(1). The grants of all other tribes are proportionately adjusted to keep the allocation within available appropriations.

If MODAVG < MOD1996,

then GRANT1 = unadjGRANT + (MOD1996*(TDC/NTDC)) − (MODAVG* (TDC/NTDC)).

Otherwise,

GRANT1 = unadjGRANT − [UNDERMOD$ * (unadjGRANT / OVERMODGRANT$)]

Where:

UNDERMOD$ = for all tribes qualifying for an increase to modernization, the sum of the differences between local cost adjusted MOD1996 and local cost adjusted MODAVG.

OVERMODGRANT$ = for all tribes not qualifying for an increase to modernization, the sum of their unadjusted grant amounts.

10. As called for in § 1000.340(b), a final adjustment occurs to ensure that no tribe is allocated less funding under the formula than an IHA received on its behalf in FY 1996 for operating subsidy and modernization. Indian tribes receiving more under the IHBG formula than in FY 1996 ''pay'' for the upward adjustment for the other tribes by having their grants adjusted downward, so long as the adjustment does not reduce their grant below the minimum funding amount.

Let TEST = GRANT1 − OPMOD96.

If TEST is less than 0, then GRANT2 = OPMOD96.

If TEST is greater than 0 and GRANT1 > MINFUNDING, then GRANT2 = GRANT1 − [UNDER1996 * (TEST / OVER1996)].

Where:

OPMOD96 = funding received by tribe in FY 1996 for Operating Subsidy and Modernization.

UNDER1996 = for all tribes with TEST less than 0, sum of the absolute value of TEST.

OVER1996 = for all tribes with TEST greater than 0, sum of TEST.

GRANT2 is the approximate grant amount in any given year for any given tribe.

Dated: April 12, 2007.

**Paula O. Blunt,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. E7–7470 Filed 4–19–07; 8:45 am]

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## LIST OF PUBLIC LAWS

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**S. 494/P.L. 110–17**

NATO Freedom Consolidation Act of 2007 (Apr. 9, 2007; 121 Stat. 73)

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