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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.

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket No. AMS–TM–07–0062; TM–07–06IF]

RIN 0581–AC71

National Organic Program (NOP)—Amendments to the National List of Allowed and Prohibited Substances (Processing)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with requests for comments.

SUMMARY: This Interim final rule amends the Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) regulations to enact 38 recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) during public meetings held May 6–8, 2002, in Austin, Texas, and March 27–29, 2007, in Washington, DC. This action is also being taken to provide an additional 60 days for the public to comment on these 38 amendments to the National List.

DATES: *Effective Dates:* This interim final rule becomes effective June 21, 2007. All comments received by August 27, 2007 will be considered prior to the issuance of the final rule.

ADDRESSES: Interested persons may comment on this interim final rule using any of the following procedures:

- *Mail:* Comments may be submitted by mail to Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, 1400 Independence Ave., SW., Room 4008–So., Ag Stop 0268, Washington, DC 20250.
- *Internet: www.regulations.gov.*
- Written comments on this interim final rule should be identified with the docket number AMS–TM–07–0062. Commenters should identify the topic and section number of this interim final rule to which the comment refers.
- Clearly indicate if you are for or against the interim final rule or some portion of it and your reason for it. Include recommendation changes as appropriate.
- Include a copy of articles or other references that support your comments. Only relevant material should be submitted.

All comments to this interim final rule, submitted by the above procedures, will be available for viewing at: *www.regulations.gov.* Comments submitted in response to this interim final rule will also be available for viewing in person at USDA–AMS, Transportation and Marketing, National Organic Program, Room 4008—South Building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except on official Federal holidays). Persons wanting to view comments received in response to this interim final rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TM/NOP, Room 4008–So., Ag Stop 0268, 1400 Independence Ave., SW., Washington, DC 20250. Phone: (202) 720–3252.

SUPPLEMENTARY INFORMATION:

I. Background

The Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. 6501 *et seq.*), authorizes the establishment of the NOP regulations. On December 21, 2000, the Secretary established, within the NOP (7 CFR part 205), the National List regulations §§ 205.600 through 205.607. This National List identifies the synthetic substances that may be used and the non-synthetic substances that may not be used in organic production. The National List also identifies synthetic, non-synthetic non-agricultural and non-organic agricultural substances that may be used in organic handling. The OFPA and NOP regulations, in § 205.105, specifically prohibit the use of any synthetic substance for organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any non-organic agricultural, non-synthetic non-agricultural substance used in organic handling must also be on the National List.

Until recently, some producers, handlers and certifying agents have misinterpreted National List regulations § 205.606 to mean that any non-organic agricultural product which was determined by an accredited certifying agent to be not commercially available in organic form could be used in organic products, without being individually listed pursuant to the National List procedures. In January 2005, the First Circuit Court of Appeal's decision in *Harvey* v. *Johanns* found that such an interpretation is contrary to the plain meaning of the OFPA and held that 7 CFR 205.606 shall not be interpreted to create a blanket exemption to the National List requirements specified in §§ 6517 and 6518 of the OFPA (7 U.S.C. 6517–6518). Therefore, consistent with the district court's final judgment and order, dated June 9, 2005, on July 1, 2005, the NOP published a notice regarding § 205.606 (70 FR 38090), and on June 7, 2006, published a final rule (71 FR 32803) revising § 205.606 to clarify that the section shall be interpreted to permit the use of a non-organically produced agricultural product only when the product has been listed in § 205.606, and when an accredited certifying agent has determined that the organic form of the agricultural product is not commercially available. In order to enable an orderly transition, the district court's final judgment and order allowed for products produced in conformance with the misinterpretation of § 205.606 to be produced and sold until June 9, 2007, after which point no non-conforming products may enter the stream of commerce. As a result, since June 9, 2007, any certified products that have been produced and entered into the stream of commerce using non-organic agricultural ingredients that are not listed in § 205.606 are in non-compliance with the district court's final order and judgment on *Harvey* v. *Johanns*.

Concerning organic products that contain no more than 5% non-organic agricultural ingredients that do not appear on the National List, such

products that have been produced and labeled as organic prior to June 9, 2007, are considered to be in the stream of commerce. ''Organic'' products that meet this description may remain in the marketplace as organically produced until the existing supply is exhausted.

On May 15, 2007, USDA published a proposed rule (72 FR 27252) to amend the National List regulations to enact recommendations submitted to the Secretary by the NOSB as a result of public meetings held on May 6–8, 2002, in Austin, TX, and March 27–29, 2007, in Washington, DC. This proposed rule suggested the addition of 38 non-organic agricultural ingredients, along with any restrictive annotations, to the National List regulations. The 38 ingredients proposed for addition to the National List were based on petitions from the industry, in response to the potential impact of the district court's final order and judgment concerning changes to § 205.606 of the NOP regulations.

NOP and NOSB received approximately 99 petitions to add more than 600 non-organic agricultural ingredients and substances to § 205.606 of the National List regulations. After Program review for adequate petition information, 79 petitions to add 52 substances to the National List were forwarded through the petition review process to the NOSB Materials and Handling Committees for review and evaluation against the OFPA criteria and NOP regulations. Prior to the respective public NOSB meetings, 52 draft recommendations from the NOSB committees were posted on the NOP Web site for review and public comment. Of the 52 petitioned ingredients, the NOSB, for their March 2007 meeting, requested, received, and reviewed public comments on the petitioned ingredients and voted to add 38 ingredients to § 205.606 of the National List.

Under the authority of OFPA and the NOP regulations, the National List can be amended by the Secretary based upon recommendations by the NOSB.

II. Overview of Amendments

The following provides an overview of the amendments to designated sections of the National List regulations.

Section 205.606 Nonorganically Produced Agricultural Products Allowed as Ingredients in or on Processed Products Labeled as ''Organic''

This interim final rule amends § 205.606 of the National List regulations by adding the following substances:

Color Ingredients From Agricultural Products

Annatto extract color (pigment CAS # 1393–63–1)—water and oil soluble.

Beet juice extract color (pigment CAS # 7659–95–2).

Beta-Carotene extract color from carrots (CAS # 1393–63–1).

Black currant juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Black/Purple carrot juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Blueberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Carrot juice color (pigment CAS # 1393–63–1).

Cherry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Chokeberry—Aronia juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Elderberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Grape juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Grape skin extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Paprika color—dried powder and vegetable oil extract (CAS # 68917–78–2).

Pumpkin juice color (pigment CAS # 127–40–2).

Purple potato juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Red radish extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

Saffron extract color (pigment CAS # 1393–63–1).

Turmeric extract color (CAS # 458–37–7).

Ingredients or Processing Aids From Agricultural Products

Casings, from processed intestines (no CAS #).

Celery powder (No CAS #).

Chia (*Salvia hispanica L.*) (no CAS #).

Dillweed oil (CAS # 8006–75–5).

Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8).

Fructooligosaccharides (CAS # 308066–66–2).

Galangal, frozen (no CAS #).

Gelatin (CAS # 9000–70–8).

Hops (*Humulus lupulus*) (no CAS #).

Inulin, oligofructose enriched (CAS # 9005–80–5).

Konjac flour (CAS # 37220–17–0).

Lemongrass, frozen (no CAS #).

Orange shellac, unbleached (CAS # 9000–59–3).

Pepper, chipotle chile (no CAS #).

Rice starch, unmodified (CAS # 977000–08–0)—for use in organic handling until [two years from date of publication].

Sweet potato starch, for bean thread production only (no CAS #).

Turkish bay leaves (no CAS #).

Wakame seaweed (*Undaria pinnatifida*) (no CAS #).

Whey protein concentrate (no CAS #).

III. Related Documents—Federal Register Notices

Two notices and one proposed rule (72 FR 27252) were published regarding the meetings of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and recommendations included in this interim final rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 67 FR 19375, April 19, 2002, (Gelatin, Konjac flour, Orange shellac); (2) 72 FR 10971, March 12, 2007, (Casings, Celery powder, Chia (*Salvia hispanica L.*), Colors—from agricultural products: Annatto extract; Beet juice; Beta-carotene extract; Purple carrot juice; Black currant juice; Blueberry juice; Carrot juice; Cherry juice; Chokeberry/Aronia juice; Elderberry juice; Grape juice; Grape skin extract; Paprika; Pumpkin juice; Purple potato juice; Red cabbage extract; Red radish extract; Saffron; Turmeric; Dillweed oil, Fish oil, Fructooligosaccharides, Galangal—frozen, Hops, Inulin—oligofructose enriched, Lemongrass—frozen, Pepper—chipotle chile, Rice starch, Sweet potato starch, Turkish bay leaves, Wakame seaweed (*Undaria pinnatifida*), and Whey protein concentrate).

IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary to make amendments to the National List based on recommendations by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to recommend changes to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition

process is implemented under § 205.607 of the NOP regulations. The current petition process (72 FR 2167 January 18, 2007) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop*.

A. Executive Order 12866

This action has been determined not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This interim final rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under the OFPA from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in § 6514(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under §§ 6503 through 6507 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to § 6507(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to § 6519(f) of the OFPA (7 U.S.C. 6519(f)), this interim final rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 6520 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). The AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this interim final rule would not be significant. The effect of this interim final rule would be to allow the use of additional substances in agricultural production and handling. This action would modify the regulations to provide both large and small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and entirely beneficial to both large and small agricultural service firms. Accordingly, AMS certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. AMS invites comments on the economic impact on small entities of this interim final rule.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000 and small agricultural producers are defined as those having annual receipts of less than $750,000. This interim final rule would have an impact on a substantial number of small entities.

Based upon USDA's Economic Research Service and AMS data compiled from 2001 to 2005, the U.S. organic industry at the end of 2005 included nearly 8,500 certified organic crop and livestock operations, plus more than 2,900 handling operations. Organic crop and livestock operations reported certified acreage totaling more than 4.05 million acres of organic farm production. Total number of organic crop and livestock operations increased by more than 18 percent from 2001 to 2005, while total certified acreage more than doubled during this time period. AMS estimates that these trends continued through 2006 and will be higher in 2007.

U.S. sales of organic food and beverages have grown from $1 billion in 1990 to nearly $17 billion in 2006. Organic food sales are projected to reach $23.8 billion for 2010. The organic industry is viewed as the fastest growing sector of agriculture, currently representing nearly 3 percent of overall food and beverage sales. Since 1990, organic retail sales have historically demonstrated a growth rate between 20 to 24 percent each year including a 22 percent increase in 2006.

In addition, USDA has accredited 99 certifying agents who have applied to USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the NOP Web site, at *http://www.ams.usda.gov/nop*. AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

Under the OFPA, no additional collection or recordkeeping requirements are imposed on the public by this interim final rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR part 1320.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

E. Received Comments on Proposed Rule AMS–TM–07–0062

AMS received approximately 1,250 comments on proposed rule AMS-TM–07–0062. Comments were received from organic producers and handlers, accredited certifying agents, consumers, retailers, food service establishments and public interest groups. In general, comments were opposed to the abbreviated comment period for proposed rule AMS–TM–07–0062 and requested an extended comment period. There were comments that supported the addition of all 38 non-organic agricultural ingredients to the National List; while other comments opposed the addition of all non-organic agricultural ingredients to § 205.606 of the National List.

Many comments either supported or opposed the specific National List amendments of the following non-organic agricultural ingredients: Casings from processed intestines; gelatin; colors from agricultural products; konjac flour; hops; lemongrass; Turkish bay leaves; turmeric; and whey protein concentrate. Some comments addressed the inclusion of CAS numbers or the use of scientific names to identify the non-organic ingredients.

Though a significant number of comments were received, very few comments submitted were from processors or handlers. Comments from this segment of the industry would be helpful in developing a final rule. A number of comments expressed concern regarding the information and criteria used for determining the fragility of the organic ingredient supply or organic availability of the proposed 38 non-organic agricultural ingredients.

As a result of the district court's final order and judgment in *Harvey* v. *Johanns* and requests for an extension of the public comment period on AMS–TM–07–0062, AMS is issuing this interim final rule to (1) Permit the use of the 38 ingredients during the extended comment and final rulemaking periods to minimize the impact to the organic industry and (2) extend the comment period (60 days) to receive additional comments regarding the addition of the 38 non-organic agricultural ingredients to § 205.606.

F. Effective Date

Effective June 9, 2007, these 38 substances were prohibited for use in processed products labeled as ''organic.'' Continued loss of the use of these products would disrupt the trade of food products currently being labeled as ''organic''. Therefore, the continued use of these products as ingredients in foods labeled as ''organic'' is necessary to prevent possible significant business disruption for organic producers and handlers. Accordingly, pursuant to 5 U.S.C. 553, it is found, and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give further notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this interim final rule until 30 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

■ For the reasons set forth in the preamble, 7 CFR part 205, subpart G is amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

■ 2. Section 205.606 is revised to read as follows:

§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic.''

Only the following nonorganically produced agricultural products may be used as ingredients in or on processed products labeled as ''organic,'' only in accordance with any restrictions specified in this section, and only when the product is not commercially available in organic form.

(a) Casings, from processed intestines.

(b) Celery powder.

(c) Chia (*Salvia hispanica L.*).

(d) Colors derived from agricultural products.

(1) Annatto extract color (pigment CAS # 1393–63–1)—water and oil soluble.

(2) Beet juice extract color (pigment CAS # 7659–95–2).

(3) Beta-carotene extract color, derived from carrots (CAS # 1393–63–1).

(4) Black currant juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(5) Black/Purple carrot juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(6) Blueberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(7) Carrot juice color (pigment CAS # 1393–63–1).

(8) Cherry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(9) Chokeberry—Aronia juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(10) Elderberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(11) Grape juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(12) Grape skin extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(13) Paprika color (CAS # 68917–78–2)—dried, and oil extracted.

(14) Pumpkin juice color (pigment CAS # 127–40–2).

(15) Purple potato juice (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(16) Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(17) Red radish extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).

(18) Saffron extract color (pigment CAS # 1393–63–1).

(19) Turmeric extract color (CAS # 458–37–7).

(e) Dillweed oil (CAS # 8006–75–5).

(f) Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8)—stabilized with organic ingredients or only with ingredients on the National List, §§ 205.605 and 205.606.

(g) Fructooligosaccharides (CAS # 308066–66–2).

(h) Galangal, frozen.

(i) Gelatin (CAS # 9000–70–8).

(j) Gums—water extracted only (Arabic; Guar; Locust bean; and Carob bean).

(k) Hops (*Humulus luplus*).

(l) Inulin-oligofructose enriched (CAS # 9005–80–5).

(m) Kelp—for use only as a thickener and dietary supplement.

(n) Konjac flour (CAS # 37220–17–0).
(o) Lecithin—unbleached.
(p) Lemongrass—frozen.
(q) Orange shellac-unbleached (CAS # 9000–59–3).
(r) Pectin (high-methoxy).
(s) Peppers (Chipotle chile).
(t) Starches.
(1) Cornstarch (native).
(2) Rice starch, unmodified (CAS # 977000–08–0)—for use in organic handling until June 21, 2009.
(3) Sweet potato starch—for bean thread production only.
(u) Turkish bay leaves.
(v) Wakame seaweed (*Undaria pinnatifida*).
(w) Whey protein concentrate.

Dated: June 22, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–3142 Filed 6–22–07; 3:00 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. AMS–FV–06–0180; FV06–948–610 Review]

Irish Potatoes Grown in Colorado; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This action summarizes the results under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), of an Agricultural Marketing Service (AMS) review of Marketing Order No. 948, regulating the handling of Irish potatoes grown in Colorado (order). AMS has determined that the order should be continued.

ADDRESSES: Interested persons may obtain a copy of the review. Requests for copies should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; e-mail: *moab.docketclerk@usda.gov* or Internet: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Portland, Oregon 97204; Telephone: (503) 326–2724; Fax: (503) 326–7440; or e-mail: *Teresa.Hutchinson@usda.gov* or *GaryD.Olson@usda.gov*.

SUPPLEMENTARY INFORMATION: Marketing Order No. 948, as amended (7 CFR part 948), regulates the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The State of Colorado is divided into three areas for marketing order purposes. Currently, only Area No. 2 and Area No. 3 are active.

Area No. 1, commonly known as the Western Slope, includes and consists of the counties of Routt, Eagle, Pitkin, Gunnison, Hinsdale, La Plata, in the State of Colorado, and all counties in said State west of the aforesaid counties.

Area No. 2, commonly known as the San Luis Valley, includes and consists of the counties of Chaffee, Saguache, Huerfano, Las Animas, Mineral, Archuleta, Rio Grande, Conejos, Costilla, and Alamosa in the State of Colorado.

Area No. 3, commonly known as Northern Colorado, includes and consists of all the remaining counties in the State of Colorado which are not included in Area No. 1 or Area No. 2.

The order establishes administrative committees for each of these areas (area committees).

The Area No. 2 administrative committee is comprised of 14 members and their respective alternates. Nine members represent producers and five members represent handlers. Two producers are from Rio Grande County, two producers are from either Saguache County or Chaffee County, one producer is from Conejos County, two producers are from Alamosa County, one producer represents all other counties in Area No. 2, and one producer represents certified seed producers in Area No. 2. Two handlers represent bulk handlers in Area No. 2 and three handlers represent handlers in Area No. 2 other than bulk handlers.

The Area No. 3 administrative committee is comprised of five members and their respective alternates. Three producers and two handlers represent producers and handlers from any county in Area No. 3.

With regulations in Area No. 1 suspended, there is currently no need for an Area No. 1 administrative committee.

The order also establishes the Colorado Potato Committee (CPC) which is comprised of six members and alternates selected by the Department of Agriculture (USDA). Three members and three alternates are selected from nominations of Area No. 2 committee members or alternates, and three members and three alternates are selected from nominations of Area No. 3 committee members or alternates.

Currently, there are approximately 175 producers and 95 handlers of Colorado potatoes in both of the active areas. The majority of producers and handlers may be classified as small entities. The regulations implemented under the order are applied uniformly and designed to benefit all entities, regardless of size.

AMS published in the **Federal Register** on February 18, 1999 (64 FR 8014), a plan to review certain regulations, including Marketing Order No. 948, under criteria contained in section 610 of the RFA (5 U.S.C. 601–612). Updated plans were published in the **Federal Register** on January 4, 2002 (67 FR 525), August 14, 2003 (68 FR 48574), and again on March 24, 2006 (71 FR 14827). Accordingly, AMS published a notice of review and request for written comments on the Colorado potato marketing order in the February 21, 2006, issue of the **Federal Register** (71 FR 8810). The deadline for comments ended April 24, 2006. Two comments were received in support of the order, and are discussed later in this document.

The review was undertaken to determine whether the Colorado potato marketing order should be continued without being changed, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the order; (2) the nature of complaints or comments received from the public concerning the order; (3) the complexity of the order; (4) the extent to which the order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the order.

The order authorizes grade, size, quality, maturity, pack, and container regulations as well as inspection requirements. The grade, size, quality, maturity, and inspection regulations are also applied to imported potatoes under section 608e of the Act. The order also authorizes the area committees to establish projects including marketing research and development projects, designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes.

These order requirements have helped ensure that only quality product reaches the consumer. Quality requirements have helped increase and maintain demand for Colorado potatoes over the years. The compilation and dissemination of statistical information has helped producers and handlers make production and marketing decisions. Funds to administer the order are obtained from handler assessments.

Regarding complaints or comments received from the public concerning the order, USDA received two comments, one each from the Area No. 2 and Area No. 3 Committees. Both comments were in favor of the continuation of the order and addressed each of the five factors under consideration by AMS.

Marketing order issues and programs are discussed at public meetings, and all interested persons are allowed to express their views. All comments are considered in the decision making process by the area committees and the USDA before any program changes are implemented.

In considering the order's complexity, AMS has determined that the order is not unduly complex.

During the review, the order was also checked for duplication and overlap with other regulations. AMS did not identify any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the marketing order for Colorado potatoes. There is a Colorado State marketing order for potatoes authorized to conduct programs similar to those under the Federal order. However, the State program cooperates with the Federal order to ensure that their efforts are not duplicative. For instance, the State order currently conducts production and marketing research and market promotion, which are authorized—but not being conducted—under the Federal order.

The order was established in August 1941. During the 65 years the order has been effective, AMS and the Colorado potato industry have continuously monitored marketing operations. Changes in regulations have been implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of periodic evaluations is to assure that the order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

The CPC and both area committees meet several times a year to discuss the order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to reflect current industry practices. As a result, regulatory changes have been made numerous times over the years to address industry operation changes and to improve program administration. In addition, in 1960, the area committees made several recommendations to improve quality regulations and program operations through formal amendment of the order. An amendment hearing was subsequently held in Denver, Colorado, on February 1–2, 1960, to receive evidence regarding the recommendations. As a result, a referendum was held June 20–28, 1960, to determine producer support for the proposed amendments. The proposed amendments were favored by a majority of the producers voting in the referendum.

Based on the potential benefits of the order to producers, handlers, and consumers, AMS has determined that the Colorado potato marketing order should be continued. The order was established to help the Colorado potato industry work with USDA to solve marketing problems. The order regulations on grade, size, quality, maturity, pack, container, and marketing research and development activities continue to be beneficial to producers, handlers, and consumers. AMS will continue to work with the Colorado potato industry in maintaining an effective marketing order program.

Dated: June 21, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–12396 Filed 6–26–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1209

[Docket No. : AMS–FV–07–0019; FV–06–704 FR]

Mushroom Promotion, Research, and Consumer Information Order; Reallocation of Mushroom Council Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that reapportioned the membership of the Mushroom Council (Council) to reflect shifts in United States mushroom production. The final rule continues in effect the realignment of the Mushroom Promotion, Research, and Consumer Information Order's (Order) four United States geographic regions, and reallocates Council member representation in two of the four United States geographic regions (Regions 1 and 4). The Council, which administers the Order, proposed the amendments in conformance with Order requirements to review—at least every 5 years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume. These changes to the Council are effective for the Secretary of Agriculture's 2008 appointments.

DATES: Effective Date: July 27, 2007.

FOR FURTHER INFORMATION CONTACT: Daniel Manzoni, Marketing Specialist, or Sonia N. Jimenez, Chief, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244-Room 0634-S, 1400 Independence Avenue, SW., Washington, DC 20250–0244; telephone (202) 720–9915 or (888) 720–9917 (toll free); fax: (202) 205–2800; or e-mail: *daniel.manzoni@usda.gov* or *sonia.jimenez@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under the Mushroom Promotion, Research, and Consumer Information Order [7 CFR part 1209]. The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) [7 U.S.C. 6101–6112].

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act provides that any person subject to the Order may file a written petition with the Department of Agriculture (Department) if they believe that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with law. In any petition, the person may request a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides

or conducts business shall have the jurisdiction to review the Department's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

Final Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) has examined the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (importers) as having receipts of no more than $6,500,000. There are 97 producers and 18 importers subject to the Order, and thus, eligible to serve on the Council. The majority of these producers and importers are considered small entities as defined by the Small Business Administration. Producers and importers of 500,000 pounds or less of mushrooms for the fresh market are exempt from the Order.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceed 35,000,000 pounds of mushrooms annually. The Order also specifies that the Council will review—at least every five years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume, and recommend changes accordingly.

At its June 2006 meeting, the Council reviewed mushroom production volume in the United States and import volume for the July 1, 2002, through June 30, 2005, yearly periods. Based on the data, the Council reviewed and discussed reapportionment proposals. After considerable discussion, the Council approved a reapportionment proposal for recommendation to the Department. The Council recommended reapportionment of the Order's four United States geographic regions, and the reallocation of Council member representation in two of the four United States regions (Regions 1 and 4) to reflect shifts in United States mushroom production.

This rule adopts the interim final rule that realigns the four United States geographic regions, and reallocates Council member representation in two of the four United States geographic regions as follows: Region 1—the States of Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—all other States including the District of Columbia and the Commonwealth of Puerto Rico. Also, the number of Council member representation is reallocated as follows: from one member to three members for Region 1 and from two members to zero members for Region 4. Representation for Region 2, Region 3, and importers remains unchanged at three members, two members, and one member respectively.

The overall impact is favorable for producers and importers because the producers and importers will have more equitable representation on the Council based on United States mushroom production volume and import volume.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR Part 1320] which implements the Paperwork Reduction Act of 1995 (PRA) [44 U.S.C. Chapter 35], the information collection requirements under the PRA, there are no new requirements contained in this rule. The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581–0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved. In terms of alternatives to this rule, this action reflects the volume thresholds and procedures that have been established previously under the provisions of the Order for reallocation of Council membership.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

Background

The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101–6112], and is administered by the Council. Under the Order, the Council administers a nationally coordinated program of research, development, and information designed to strengthen the fresh mushroom's position in the market place and to establish, maintain, and expand markets for fresh mushrooms. The program is financed by an assessment of $0.0043 cents per pound on any person who produces or imports over 500,000 pounds of mushrooms for the fresh market annually. Under the Order, handlers collect and remit producer assessments to the Council, and assessments paid by importers are collected and remitted by the United States Customs Service.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceed 35,000,000 pounds of mushrooms annually.

Section 1209.30(d) of the Order provides that at least every five years and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years. Based on the review, the Council is required to recommend reapportionment of the regions or modification of the number of members from such regions, or both, to reflect shifts in the geographic distribution of mushroom production volume and importer representation.

The Order provides that each producer region that produces, on average, at least 35 million pounds of mushrooms annually is entitled to one member. Further, each producer region is entitled to an additional member for each 50 million pounds of annual production, on average, in excess of the initial 35 million pounds required to qualify for representation, until the nine seats on the Council are filled. For purposes of this rule and as provided under the Order, ''on average'' reflects a rolling average of production or imports during the last three fiscal years.

Under the current Order, regions and Council member representation for each region are the following: Region 1: Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, New Hampshire, North Dakota, Ohio, Rhode Island, South Dakota, Vermont, Wisconsin, and Wyoming—1

producer member; Region 2: Delaware, Maryland, New Jersey, Pennsylvania, the District of Columbia, West Virginia, and Virginia—3 producer members; Region 3: Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington—2 producer members; Region 4: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, the Commonwealth of Puerto Rico, South Carolina, Tennessee, and Texas—2 producer members; and Region 5: importers; 1 member. Based on data for July 1, 2002, through June 30, 2005, there are about 725 million pounds of mushrooms assessed on average annually under the Order. Currently, the Order's Regions 1, 2, 3, 4, and 5 represent 32 million pounds, 382 million pounds, 133 million pounds, 113 million pounds, and 65 million pounds, respectively. Since Region 1 represents 32 million pounds of mushroom production, the region no longer qualifies for member representation because production within the region falls below the 35 million pounds Order requirement.

Based on data for the July 1, 2002, through June 30, 2005, the Order is revised to reapportion membership of the Council to reflect shifts in the geographic distribution of mushroom production. The annual average production of mushrooms for the Order's Regions 1, 2, 3, 4, and 5 as adopted in this rule will be 168 million pounds, 382 million pounds, 109 million pounds, 0 million pounds, and 65 million pounds. As adopted in this rule, Regions 1, 2, and 3 will be comprised of states with mushroom production, and Region 4 will be comprised of all other states with no mushroom production.

Based on a review of United States mushroom production volume and import volume, this rule adopts amendments to change the four United States geographic regions as follows: Region 1—the States of Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—all other States including the District of Columbia and the Commonwealth of Puerto Rico. Also, the amendments changes the number of Council member representatives from one member to three members for Region 1 and from two members to zero members for Region 4. Representation for Region 2, Region 3, and importers remain unchanged at three members, two members, and one member, respectively. The amendments, which represent shifts in mushroom production volume, provides more equitable producer and importer representation on the Council based on U. S. mushroom production volumes and import volumes.

Nominations and appointments to the Council are conducted pursuant to §§ 1209.30 and 1209.230. Nominations for Council positions for terms of office that begin January 1, 2008 will be based on the amendments contained in this rule.

An interim final rule that reapportions the four United States geographic regions, and reallocates Council member representation under the Order was published in the **Federal Register** on March 19, 2007 [72 FR 12701]. The interim final rule provided for a 30-day comment period, which ended on April 18, 2007. One comment was received from the Council supporting the change.

After consideration of all relevant material presented, including the Board's recommendation and other information, the interim final rule as published in the **Federal Register** (72 FR 12701, March 19, 2007) is adopted, as a final rule, without change.

List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mushroom promotion, Reporting and recording, Requirements.

■ For the reasons set forth in the preamble, 7 CFR part 1209 is amended as follows:

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1209 continues to read as follows:

Authority: 7 U.S.C. 6101–6112.

■ Accordingly, the interim final rule amending 7 CFR part 1209, which was published in the March 19, 2007, **Federal Register** at 72 FR 12701 is adopted as a final rule without change.

Dated: June 21, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–12402 Filed 6–26–07; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

RIN 3150–AH62

Conforming Administrative Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is making conforming changes to citations in the regulatory text. This action is necessary to inform the public of these conforming changes to NRC regulations.

DATES: *Effective Date:* June 27, 2007.

FOR FURTHER INFORMATION CONTACT: Michael K. Williamson, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6234, e-mail: *mkw1@nrc.gov*.

SUPPLEMENTARY INFORMATION: In September 2000, when part 70 was amended, a new Subpart H to part 70 was added which resulted in former § 70.61 being redesignated as § 70.81 and former § 70.62 being redesignated as § 70.82. Additionally, former § 70.71 was redesignated as § 70.91. NRC is amending its regulations to make conforming changes to citations in the regulatory text by replacing § 70.61 with § 70.81, replacing § 70.62 with § 70.82, and replacing § 70.71 with § 70.91, to update and correct cross-references within 10 CFR part 70. In addition, in September 2000, § 70.14 was redesignated as § 70.17 as referenced in § 70.51.

Because these amendments deal solely with correcting cross references in the regulations, the notice and comment provisions of the Administrative Procedure Act do not apply, under 5 U.S.C. 553(b)(B), because good cause exists to make these ministerial changes without unnecessary notices and public procedure. This amendment will become effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, under 5 U.S.C. 553(d)(3), because this amendment is of a minor and administrative nature.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an

environmental assessment has been prepared for this final rule.

Paperwork Reduction Act

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), approval numbers 3150–0009, 3150–0028, and 3150–0056.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule, because this rule is administrative, in that it amends the regulations to reflect administrative conforming changes made to 10 CFR part 70. This is considered a minor non-substantive amendment and will not have a significant impact on NRC licensees or the public.

Backfit Analysis

The NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or 76.76) does not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. This amendment is considered a minor non-substantive amendment; therefore, a backfit analysis is not required.

List of Subjects in 10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, NRC is making the following conforming changes to 10 CFR Part 70.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

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

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under secs. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

■ 2. In § 70.19, the introductory text in paragraph (c) is revised to read as follows:

§ 70.19 General license for calibration or reference sources.

* * * * *

(c) The general license in paragraph (a) of this section is subject to the provisions of §§ 70.32, 70.50, 70.55, 70.56, 70.91, 70.81, and 70.82; the provisions of §§ 74.11 and 74.19 of this chapter; and to the provisions of parts 19, 20, and 21 of this chapter. In addition, persons who receive title to own, acquire, deliver, receive, possess, use or transfer one or more calibration or reference sources under this general license:

* * * * *

■ 3. In § 70.20a, paragraph (a) is revised to read as follows:

§ 70.20a General license to possess special nuclear material for transport.

(a) A general license is issued to any person to possess formula quantities of strategic special nuclear material of the types and quantities subject to the requirements of §§ 73.20, 73.25, 73.26 and 73.27 of this chapter, and irradiated reactor fuel containing material of the types and quantities subject to the requirements of § 73.37 of this chapter, in the regular course of carriage for another or storage incident. Carriers generally licensed under § 70.20b are exempt from the requirements of this section. Carriers of irradiated reactor fuel for the United States Department of Energy are also exempt from the requirements of this section. The general license is subject to the applicable provisions of §§ 70.7 (a) through (e), 70.32 (a) and (b), and §§ 70.42, 70.52, 70.55, 70.91, 70.81, 70.82 and 10 CFR 74.11.

* * * * *

■ 4. In § 70.20b, paragraph (b) is revised to read as follows:

§ 70.20b General license for carriers of transient shipments of formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, and irradiated reactor fuel.

* * * * *

(b) Persons generally licensed under this section are exempt from the requirements of parts 19 and 20 of this chapter and the requirements of this part, except §§ 70.32 (a) and (b), 70.52, 70.55, 70.91, 70.81, and 70.82.

* * * * *

■ 5. In § 70.51, paragraph (c)(2) is revised to read as follows:

§ 70.51 Records requirements.

* * * * *

(c) * * *

(2) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for these records shall apply unless the Commission, under § 70.17 has granted a specific exemption from the record retention requirements specified in the regulations in this part.

Dated at Rockville, Maryland, this 8th day of June, 2007.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. E7–12423 Filed 6–26–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 563b and 575

[No. OTS–2007–0014]

RIN 1550–AC07

Stock Benefit Plans in Mutual-to-Stock Conversions and Mutual Holding Company Structures

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is clarifying its regulations regarding stock benefit plans established after mutual-to-stock

conversions or in mutual holding company structures. In addition, OTS is modifying the voting requirements for the adoption of certain stock benefit plans in mutual holding company structures by providing that the plans must be approved by a majority of the minority shares voting on the plan. Also, OTS is making several minor changes to the regulations governing mutual-to-stock conversions and minority stock issuances.

DATES: This rule is effective on October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Donald W. Dwyer, (202) 906–6414, Director, Applications, Examinations and Supervision—Operations; Aaron B. Kahn, (202) 906–6263, Assistant Chief Counsel, Business Transactions Division or David A. Permut, (202) 906–7505, Senior Attorney, Business Transactions Division, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Introduction

On July 20, 2006, OTS published a notice of proposed rulemaking (NPR) that proposed changes to the OTS mutual-to-stock conversion regulations, 12 CFR Part 563b (Conversion Regulations), and the OTS mutual holding company regulations, 12 CFR Part 575 (MHC Regulations) regarding stock benefit plans established after mutual-to-stock conversions or in mutual holding company (MHC) structures.[1]

For several years, the MHC Regulations have required that a majority of the outstanding minority shares approve stock benefit plans. In the NPR, OTS proposed to reduce the voting requirements for the establishment of stock benefit plans in MHC structures, by: (1) Eliminating the requirement for a separate minority shareholder vote when more than a year has passed after a Minority Stock Issuance that was conducted in accordance with the stock purchase priorities set forth in Part 563b; and (2) during the first year after a Minority Stock Issuance conducted in accordance with the Part 563b conversion priorities, requiring that a majority of the minority shares that actually vote on the matter, as opposed to a majority of outstanding minority shares, approve the stock benefit plans.

In addition, OTS proposed a number of other changes to its regulations. OTS proposed, among other things, to: (i) Clarify the Conversion Regulations and the MHC Regulations by referring to the specific type of plan addressed, rather than referring to plans in terms of their tax-qualified or non-tax qualified nature; (ii) eliminate 12 CFR 575.7(b)(3), which requires stock offering materials to disclose the amount of any discount on minority stock; (iii) add certain provisions to the plan size limits in sections 575.8(a)(3) and 575.8(a)(4) that parallel the restrictions in the Conversion Regulations; (iv) amend 12 CFR 575.8 to state that the quantitative limits on the size of plans in section 575.8 supersede related quantitative limits in the Conversion Regulations; (v) amend section 575.8 to state that plan restrictions in proposed sections 563b.500(a)(4) through 563b.500(a)(14) apply in the context of a Minority Stock Issuance for only one year after the Subsidiary Company engages in a Minority Stock Issuance that is conducted in accordance with the purchase priorities set forth in the Conversion Regulations; and (vi) amend the Conversion Regulations to permit converting savings associations to set smaller maximum purchase limitations in conversion stock offerings. Also, OTS proposed to move or delete several provisions in order to organize the regulations more effectively and to clarify the regulations.

II. Description of Comments

OTS received 84 comments, from 78 commenters, regarding the NPR. Of these comment letters, 19 were submitted by individual investors, 47 were submitted by savings associations, savings banks, or holding companies, or insiders thereof, two were submitted by legal counsel for savings associations or holding companies, eight were submitted by investment advisors and related entities, two were submitted by counsel for investment advisors, and six were submitted by trade associations.

All of the comment letters except one (that is, 83 comments) addressed, either solely, or among other issues, the issue of the elimination of the minority vote more than one year after completion of a Minority Stock Issuance.

Of these 83 comments, 53 were in favor of the proposed elimination of the vote requirement, and 30 objected to the elimination of the requirement. The comments were, without exception, divided based on the type of commenter. All of the comments in favor of the proposal were submitted by savings associations or savings banks, holding companies, insiders of such entities, counsel that routinely represents such entities, or trade associations that include such entities. All of the comments from individual investors, investment advisors, counsel for investment advisors, and one trade association that does not have savings associations as members, opposed the elimination of the voting requirement.

Of the 53 comments in favor of the proposed change, 45 indicated that the minority voting requirement enables minority shareholders to obtain leverage in the affairs of the Subsidiary Company beyond the confines of the establishment of a plan, and to engage in hostile activities. Certain of the comments claimed that activist shareholders' concerns are not with the plans themselves, but that activist shareholders use the leverage that the vote on such plans provides, in order to pursue other goals. Forty comments claimed that the minority vote ''disenfranchises'' the MHC. Eight comments claimed that a minority vote is contrary to the concept of MHC control over the Subsidiary Company, and three comments claimed that the proposal ''preserves the full benefits of the MHC charter.'' Four comments claimed that the minority vote ignores the interests of depositors.

Also, 41 comments asserted that minority voting requirements are unnecessary because OTS imposes restrictions on the size of plans, and 39 comments claimed that market forces will limit plans to reasonable levels. One comment noted that the staff of the Federal Deposit Insurance Corporation (FDIC) has provided advice that the lack of a minority vote after one year is acceptable.[2] One comment noted that there is no ''majority of the minority'' voting requirement under state law. Another comment observed that nothing in stock exchange rules or the NASDAQ rules requires a majority of the minority vote when there is a majority shareholder.

Three comments claimed that the minority vote requirement was unduly burdensome. One comment claimed that the minority vote might hamper the ability of an institution to attract management. One comment claimed that a minority vote was unnecessary

[1] See 71 FR 41179 (Jul. 20, 2006). Savings associations that propose to convert to stock form are subject to the Conversion Regulations. Subsidiary mutual holding companies and savings associations (collectively, Subsidiary Companies) in MHC structures that propose to issue common stock in a minority stock issuance (Minority Stock Issuance) (that is, a stock offering in which the Subsidiary Company issues stock to entities other than the parent MHC) are subject to both the Conversion Regulations and the MHC Regulations, including the provisions therein pertaining to stock benefit plans.

[2] *See*, letter from John P. Henrie, Section Chief, Risk Management and Applications Section, FDIC, to Mr. Raymond A. Tiernan, Esquire (July 6, 2005) (FDIC Letter). *See also*, letter from the Board of Governors of the Federal Reserve System to Raymond A. Tiernan, Esq. (Sept. 22, 2006).

because directors have fiduciary duties, and must comply with them. Finally, two comments stated that investors who object to the lack of a minority vote simply should not purchase the stock.

Of the 30 comments that objected to the proposal, 26 stated that the elimination of the voting requirement presented conflict of interest concerns. Eight comments stated that the proposal was contrary to good corporate governance. Two comments claimed that the lack of a voting requirement amounts to an exemption from OTS' Conflicts of Interest Regulation (Conflict Regulation).[3] In addition, two comments claimed that the proposal would harm shareholders.

Three comments asserted that plans are ''excessive'' or ''significant'' already. Four comments stated that, in light of recent concerns regarding options, or recent corporate problems, this was not an optimal time to make the proposed changes. Three comments stated that the requirement for a minority vote is not unduly restrictive, either because the minority vote adds little actual expense, or because the benefits are worth the expense. Three commenters claimed that the proposal, if adopted, will have an unfavorable effect on the cost of capital, or will not help the market for the securities. One comment stated that, to the extent the regulation would cause Subsidiary Companies to wait until a year has passed to enact stock benefit plans, the plans would be more expensive, because it is likely the stock price would rise over time.

Four of the comments that objected to the proposal claimed that depositors of the MHC have no real voice in the selection of the MHC's directors. Two comments suggested that benefit plans should be put to a depositor vote.

Two comments objected to the applicability of the rule to existing MHC structures, and indicated that the regulation, if adopted, should apply only to MHC structures established after promulgation of the proposed regulation. Finally, seven comments claimed that OTS did not provide a sufficient explanation for the proposed rule change. Forty-six comments addressed other aspects of the NPR. Of these comments, 37 were form letters from savings associations and savings banks that generally praised the proposed regulations for clarifying the regulations. Two comments objected to the change to the majority of the minority vote requirement from a majority of outstanding shares to a majority of shares actually voting. Four comments stated that the regulations would reduce regulatory burden. Two comments supported the reduction in the maximum purchase limitations for stock offerings. One comment expressed support for the proposed changes to several specific provisions of § 575.8.

One comment questioned the need to eliminate the requirement to disclose the reasons for the discount on minority stock in a Minority Stock Issuance. Finally, six other comments suggested certain specific changes to the regulation, which are discussed separately below.

III. Discussion of the Final Regulation

A. Requirement of a majority of the minority vote

OTS, in issuing the NPR, stated that it believed the minority vote requirement after one year was unduly restrictive. In full conversions, the Conversion Regulations require a vote for only one year after the mutual-to-stock conversion. While Minority Stock Issuances are distinguishable from full conversions because Subsidiary Companies that issue stock have a continuing mutual interest, and entities that complete a full conversion do not have such an interest, stock benefit plans established more than one year after a Minority Stock Issuance do not affect the mutual interest if the plans are funded with stock repurchases. Under such circumstances, plans do not reduce the percentage of stock held by minority shareholders below the percentage that they held upon completion of the Minority Stock Issuance.

Also, although the ''majority of the minority'' voting requirement has existed for over ten years, it is our understanding that a stock benefit plan put to a shareholder vote has never failed to receive the requisite vote. Under these circumstances, and given the regulatory burdens to which depository institutions are subjected, it is appropriate to inquire whether the cost of obtaining a vote exceeds the benefits.

Further, the FDIC has not required a ''majority of the minority'' vote more than one year after a minority stock issuance.[4] Therefore, under existing regulations, OTS has been subjecting MHC structures that are under its jurisdiction to requirements that are more onerous than MHC structures that are regulated by the FDIC.

OTS has carefully considered the comments received in response to the NPR. Most of the comments that opposed the proposed elimination of the majority of the minority vote requirement after one year following a Minority Stock Issuance asserted that the proposal created an unacceptable conflict of interest. Without the requirement of a separate minority vote, conflicts of interest exist in the context of stock benefit plans in an MHC structure, because individuals who direct the voting of the MHC's stock also participate in the plan.

The commenters who noted that stock exchange rules and state authorities do not require a separate minority vote where there is a majority shareholder are correct. However, it is not the mere existence of a majority shareholder that may raise conflict of interest concerns. Instead, it is the fact that in MHC structures, the individuals who direct the vote of the MHC's shares have participants in the stock benefit plans that the MHC votes to authorize.

Several commenters claimed that, notwithstanding any potential conflict of interest, a minority vote was unnecessary because directors already have fiduciary duties, OTS regulates the size of plans, or market forces will control the size of plans. OTS does not believe, however, that the existence of fiduciary duties guarantees that parties with such duties will always act appropriately. For example, the Conflict Regulation states that directors and other parties have fiduciary duties, but imposes certain requirements to ensure that the relevant parties comply with their fiduciary duties. Also, although OTS regulations provide some limitations on the size of stock benefit plans, OTS believes that, within such limitations (absent supervisory concerns), the size of plans is a shareholder decision. Further, while accounting and disclosure requirements exist with respect to stock benefit plans, such requirements do not necessarily eliminate conflict of interest issues.

The essence of several comments that supported the proposal was that the MHC should always have the sole ability to control the operations of the Subsidiary Company. Historically, however, OTS has required a majority of the minority vote when a Subsidiary Company proposes to engage in certain actions that would have a significant direct effect on minority shareholders.[5]

[3] 12 CFR 563.200 (2006).

[4] *See* FDIC Letter.

[5] In addition to requiring a majority of the minority vote for stock benefit plans, OTS regulations require a separate minority shareholder vote for the establishment of a charitable foundation in connection with a Minority Stock Issuance, and for any second-step stock conversion. *See* 12 CFR 575.11(i) and 575.12(a)(3). In addition, minority shareholders must vote separately with respect to any charitable foundation established in connection with a second-step conversion. *See* 12 CFR 563b.555.

Although the relevant statutes and regulations generally preserve the continuing control of the mutual, majority interest, OTS has long recognized that it is appropriate to consider minority interests separately in certain situations.[6]

Several commenters who supported the proposal asserted that activist shareholders often have used the minority vote requirement for stock benefit plans as leverage to influence management to take actions the activist shareholders sought on other matters. Even if certain minority shareholders have used the minority vote requirement as a means of pursuing other interests, however, it does not mean that the purpose of the minority voting requirements is invalid.

Having considered the public comments, and considering the conflict of interest issues involved, OTS concludes that it is appropriate to continue to impose the separate minority shareholder vote requirement for stock benefit plans in MHC structures, regardless of the amount of time that has passed since the most recent Minority Stock Issuance.

B. Minority Vote Required for Approval of Stock Benefit Plans

In the NPR, OTS proposed to change the minority vote required for approval of a stock benefit plan, from a majority of all outstanding minority shares to a majority of minority shares actually voting. OTS believes this change is appropriate because a simple majority shareholder vote is the standard for approval of most corporate measures. While the OTS stock charter requires that a majority of all shareholders vote on plans, the charter itself does not require a majority of the minority vote on any issue. OTS believes that in instances where a stock benefit plan is presented for a shareholder vote, it is reasonable to consider only the votes of the minority shareholders voting on the plan issue, particularly given that all minority shareholders are given notice of the vote, and such notice will be required to set forth the applicable vote requirement.

C. Definitions in § 563b.500(a) of Types of Stock Benefit Plans

In the NPR, OTS proposed to clarify 12 CFR 563b.500(a) by referring to the specific type of plan addressed (that is, an Employee Stock Ownership Plan (ESOP), Stock Option Plan (Option Plan), or Management Recognition Plan (MRP)), rather than referring to plans in terms of their tax-qualified or non-tax-qualified nature. One commenter objected to this proposed change as it related to tax-qualified plans, noting that converting savings associations do implement tax-qualified plans other than ESOPs.

OTS believes that the proposed regulation adequately addressed the possibility that tax-qualified plans would not necessarily be ESOPs. Proposed section 563b.500(a) defined the term ''ESOP'' as an employee stock ownership plan or other tax-qualified employee stock benefit plan. Accordingly, OTS is not revising this provision in the final regulations. OTS is, however, revising the definition of the term ''ESOP'' in section 575.8(a)(3) to conform to the section 563b.500(a) definition.

D. Plan Requirements in Section 563b.500(a)

One commenter claimed that sections 563b.500(a)(4) and 563b.500(a)(5), as proposed, were ambiguous. The commenter claimed that section 563b.500(a)(4) could be read either as limiting an individual to receiving 25 percent or less of the shares of each type of plan, or as applying to 25 percent of all of the shares issued under the various plans. Proposed section 563b.500(a)(4) required that ''[n]o individual receives more than 25 percent of the shares under your ESOP, MRP, or Option Plan.'' In order to make it clear that the 25 percent limitation will be applied to each plan separately, OTS is revising the regulation to require that no individual receive more than 25 percent of the shares under ''any plan.''

Proposed section 563b.500(a)(5) required that ''[y]our directors who are not your officers do not receive more than five percent of the shares of your MRP or Option Plan individually, or 30 percent of any such plan in the aggregate.'' Although the proposal did not revise the language of the previous regulatory requirement, and parties engaging in conversions or Minority Stock Issuances have not claimed the language is unclear, OTS is revising the section to provide greater clarity. The final regulation provides that ''Each of your directors who is not an officer does not receive more than five percent of the shares of your MRP or Option Plan, and all of your directors who are not officers do not receive, in the aggregate, more than 30 percent of the shares of your MRP or Option Plan.''

E. Disclosure of Discounts on Minority Stock in Minority Stock Issuances

In the NPR, OTS proposed to rescind 12 CFR 575.7(b)(3), which requires stock offering materials to disclose the amount of any discount on minority stock due to the minority status of the stock to be offered, and how the amount of the discount was determined. OTS explained that the general securities offering disclosure requirements, which require disclosure of material information, are sufficient to address the issue of disclosure of the amount and reasons for any such discount.

One commenter believed that more explanation regarding this proposed change was appropriate, including an explanation of why OTS did not consider generally applicable securities disclosure requirements to provide a basis for sufficient disclosure when the regulation was initially promulgated.

Information regarding the amount and derivation of the discount on Minority Stock Issuances due to the minority nature of the stock is included in the appraisal for the securities offering, which is an exhibit to the offering materials. Accordingly, information regarding the discount is available to any potential purchaser in the Minority Stock Issuance.

Where OTS determines that one of its regulatory requirements is redundant, OTS believes it is appropriate to remove the redundant requirement. Accordingly, OTS is rescinding section 575.7(b)(3) as proposed.

F. Plan Size Restrictions in § 575.8

The restrictions on the size of stock benefit plans set forth at 12 CFR 575.8(a)(3) through 575.8(a)(7) are set forth both in terms of the percentage of the savings association's outstanding common stock and in terms of the percentage of the savings association's stockholders' equity. One commenter suggested that all limits based on the equity of a savings association should be eliminated, and stated that such limits penalize holding companies that leverage their capital to generate better returns for stockholders.

The NPR did not propose any substantive change in the limitations in section 575.8(a) pertaining to stockholders' equity. These limitations have been in place since the MHC Regulations were initially promulgated in 1993. OTS is not aware of any situations in which the stockholders' equity provisions placed an additional burden on MHCs. Moreover, OTS believes it is appropriate to include a limitation based on the equity of a Subsidiary Company, given that stock

[6] *See, e.g.*, the discussion regarding the imposition of the majority of the minority voting requirement regarding stock benefit plans, 59 FR 22725 at 22729 (May 3, 1994), and the discussion regarding the imposition of a majority of the minority vote requirement in the context of second-step conversions, 67 FR 52010, at 52015 (Aug. 9, 2002).

benefit plans award management a share of the equity of the Subsidiary Company.

G. Proposed Changes to § 575.8(a)(9)

In the NPR, OTS proposed to retain the existing aggregate limitation on the size of the Option Plans and MRPs set forth at section 575.8(a)(9) of the MHC Regulations, and to clarify that the limitation therein is a separate limitation on Option Plans and MRPs that applies to each Minority Stock Issuance. One commenter suggested that the section be revised to provide that existing benefit plans would not have to be reduced if those plans exceeded the 25 percent limitation as a result of stock repurchases. OTS does not intend to require a reduction in the size of preexisting plans in the situation where the common stock encompassed by those plans exceeds 25 percent of the outstanding stock as a result of stock becoming treasury stock through repurchases prior to a new stock issuance. However, because OTS believes that it would be highly unlikely for preexisting plans to continue to exceed the 25 percent limitation after the close of a subsequent stock issuance, even where such plans would exceed the 25 percent limitation prior to the issuance, OTS is not adding language to the regulation that would explicitly except that situation from the regulatory limitation.

IV. Regulatory Findings

A. Paperwork Reduction Act

OTS has determined that this rule does not involve a change to collections of information previously approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12866

The Director of OTS has determined that this rule does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601), the Director certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule makes certain changes that should reduce burdens on all savings associations, including small institutions. First, the rule clarifies the regulations regarding stock benefit plans in connection with mutual-to-stock conversions and Minority Stock Issuances. These clarifications will reduce the burden of complying with the OTS regulations on stock benefit plans. Second, OTS has reduced the voting requirement to adopt stock benefit plans in MHC structures, which reduces burden on institutions establishing stock benefit plans. Finally, the rule will reduce burden by broadening the purchase limitations, thereby promoting a wider distribution of stock in a Conversion Offering or Minority Stock Issuance. All of the changes are minor and should not have a significant impact on small institutions. Accordingly, OTS has determined that a Regulatory Flexibility Analysis is not required.

D. Unfunded Mandates Reform Act of 1995

OTS has determined that the rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more and that a budgetary impact statement is not required under Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act). The rule would make certain changes that should reduce burdens on savings associations. First, the rule clarifies OTS regulations regarding stock benefit plans in connection with mutual-to-stock conversions and Minority Stock Issuances, which should reduce the burden of complying with the OTS regulations on stock benefit plans. Second, OTS has reduced the voting requirement to adopt stock benefit plans in MHC structures, which reduces burden on institutions establishing stock benefit plans. Finally, the rule will reduce burden by broadening the purchase limitations, to promote a wider distribution of stock in a Conversion Offering or Minority Stock Issuance. All of the changes are minor and should not have a significant impact on small institutions. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 563b

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 575

Administrative practice and procedure, Capital, Holding companies, Reporting and recordkeeping requirements, Savings Associations, Securities.

■ Accordingly, the Office of Thrift Supervision amends Chapter V of title 12 of the Code of Federal Regulations, as set forth below.

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

■ 1. The authority citation for part 563b continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901; 15 U.S.C. 78c, 78l, 78m, 78n, 78w.

§ 563b.385 [Amended]

■ 2. Amend § 563b.385(a) by removing the phrase ''between one percent and'' and adding the words ''up to'' in its place.

■ 3. Revise § 563b.500 to read as follows:

§ 563b.500. What management stock benefit plans may I implement?

(a) During the 12 months after your conversion, you may implement a stock option plan (Option Plan), an employee stock ownership plan or other tax-qualified employee stock benefit plan (collectively, ESOP), and a management recognition plan (MRP), provided you meet all of the following requirements.

(1) You disclose the plans in your proxy statement and offering circular and indicate in your offering circular that there will be a separate shareholder vote on the Option Plan and the MRP at least six months after the conversion. No shareholder vote is required to implement the ESOP. Your ESOP must be tax-qualified.

(2) Your Option Plan does not encompass more than ten percent of the number of shares that you issued in the conversion.

(3)(i) Your ESOP and MRP do not encompass, in the aggregate, more than ten percent of the number of shares that you issued in the conversion. If you have tangible capital of ten percent or more following the conversion, OTS may permit your ESOP and MRP to encompass, in the aggregate, up to 12 percent of the number of shares issued in the conversion; and

(ii) Your MRP does not encompass more than three percent of the number of shares that you issued in the conversion. If you have tangible capital of ten percent or more after the conversion, OTS may permit your MRP to encompass up to four percent of the number of shares that you issued in the conversion.

(4) No individual receives more than 25 percent of the shares under any plan.

(5) Your directors who are not your officers do not receive more than five percent of the shares of your MRP or Option Plan individually, or 30 percent of any such plan in the aggregate.

(6) Your shareholders approve each of the Option Plan and the MRP by a majority of the total votes eligible to be

cast at a duly called meeting before you establish or implement the plan. You may not hold this meeting until six months after your conversion.

(7) When you distribute proxies or related material to shareholders in connection with the vote on a plan, you state that the plan complies with OTS regulations and that OTS does not endorse or approve the plan in any way. You may not make any written or oral representations to the contrary.

(8) You do not grant stock options at less than the market price at the time of grant.

(9) You do not fund the Option Plan or the MRP at the time of the conversion.

(10) Your plan does not begin to vest earlier than one year after shareholders approve the plan, and does not vest at a rate exceeding 20 percent per year.

(11) Your plan permits accelerated vesting only for disability or death, or if you undergo a change of control.

(12) Your plan provides that your executive officers or directors must exercise or forfeit their options in the event the institution becomes critically undercapitalized (as defined in § 565.4 of this chapter), is subject to OTS enforcement action, or receives a capital directive under § 565.7 of this chapter.

(13) You file a copy of the proposed Option Plan or MRP with OTS and certify to OTS that the plan approved by the shareholders is the same plan that you filed with, and disclosed in, the proxy materials distributed to shareholders in connection with the vote on the plan.

(14) You file the plan and the certification with OTS within five calendar days after your shareholders approve the plan.

(b) You may provide dividend equivalent rights or dividend adjustment rights to allow for stock splits or other adjustments to your stock in your ESOP, MRP, and Option Plan.

(c) The restrictions in paragraph (a) of this section do not apply to plans implemented more than 12 months after the conversion, provided that materials pertaining to any shareholder vote regarding such plans are not distributed within the 12 months after the conversion. If a plan adopted in conformity with paragraph (a) of this section is amended more than 12 months following your conversion, your shareholders must ratify any material deviations to the requirements in paragraph (a).

PART 575—MUTUAL HOLDING COMPANIES

■ 4. The authority citation for part 575 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

■ 5. Amend § 575.7 by:
■ a. Removing the first sentence of paragraph (a);
■ b. Removing paragraphs (b)(1) and (3);
■ c. Removing the word ''not'' from paragraph (b)(2);
■ d. Redesignating paragraph (b)(2) as paragraph (a)(9);
■ e. Redesignating paragraphs (c), (d), and (e) as (b), (c), and (d) respectively; and
■ f. Revising newly designated paragraph (d).

The revision reads as follows:

§ 575.7 Issuances of stock by savings association subsidiaries of mutual holding companies.

* * * * *

(d) *Procedural and substantive requirements.* The procedural and substantive requirements of 12 CFR part 563b shall apply to all mutual holding company stock issuances under this section, unless clearly inapplicable, as determined by OTS. For purposes of this paragraph (d), the term *conversion* as it appears in the provisions of Part 563b of this chapter shall refer to the stock issuance, and the term *converted* or *converting savings association* shall refer to the savings association undertaking the stock issuance.

■ 6. In § 575.8, revise paragraphs (a)(3) through (a)(9) and add paragraph (c) to read as follows:

§ 575.8 Contents of Stock Issuance Plans.

(a) Mandatory provisions. * * *

* * * * *

(3) Provide that all employee stock ownership plans or other tax-qualified employee stock benefit plans (collectively, ESOPs) must not encompass, in the aggregate, more than either 4.9 percent of the outstanding shares of the savings association's common stock or 4.9 percent of the savings association's stockholders' equity at the close of the proposed issuance.

(4) Provide that all ESOPs and management recognition plans (MRPs) must not encompass, in the aggregate, more than either 4.9 percent of the outstanding shares of the savings association's common stock or 4.9 percent of the savings association's stockholders' equity at the close of the proposed issuance. However, if the savings association's tangible capital equals at least ten percent at the time of implementation of the plan, OTS may permit such ESOPs and MRPs to encompass, in the aggregate, up to 5.88 percent of the outstanding common stock or stockholders' equity at the close of the proposed issuance.

(5) Provide that all MRPs must not encompass, in the aggregate, more than either 1.47 percent of the common stock of the savings association or 1.47 percent of the savings association's stockholders' equity at the close of the proposed issuance. However, if the savings association's tangible capital is at least ten percent at the time of implementation of the plan, OTS may permit MRPs to encompass, in the aggregate, up to 1.96 percent of the outstanding shares of the savings association's common stock or 1.96 percent of the savings association's stockholders' equity at the close of the proposed issuance.

(6) Provide that all stock option plans (Option Plans) must not encompass, in the aggregate, more than either 4.9 percent of the savings association's outstanding common stock at the close of the proposed issuance or 4.9 percent of the savings association's stockholders' equity at the close of the proposed issuance.

(7) Provide that an ESOP, a MRP or an Option Plan modified or adopted no earlier than one year after the close of: the proposed issuance, or any subsequent issuance that is made in substantial conformity with the purchase priorities set forth in part 563b, may exceed the percentage limitations contained in paragraphs (a)(3) through (6) of this section (plan expansion), subject to the following two requirements. First, all common stock awarded in connection with any plan expansion must be acquired for such awards in the secondary market. Second, such acquisitions must begin no earlier than when such plan expansion is permitted to be made.

(8)(i) Provide that the aggregate amount of common stock that may be encompassed under all Option Plans and MRPs, or acquired by all insiders of the association and associates of insiders of the association, must not exceed the following percentages of common stock or stockholders' equity of the savings association, held by persons other than the savings association's mutual holding company parent at the close of the proposed issuance:

Institution size	Officer and director purchases (percent)
$ 50,000,000 or less	35
$ 50,000,001–100,000,000	34
$100,000,001–150,000,000	33
$150,000,001–200,000,000	32
$200,000,001–250,000,000	31
$250,000,001–300,000,000	30
$300,000,001–350,000,000	29
$350,000,001–400,000,000	28
$400,000,001–450,000,000	27
$450,000,001–500,000,000	26
Over $500,000,000	25

(ii) The percentage limitations contained in paragraph 8(i) may be exceeded provided that all stock acquired by insiders and associates of insiders or awarded under all MRPs and Option Plans in excess of those limitations is acquired in the secondary market. If acquired for such awards on the secondary market, such acquisitions must begin no earlier than one year after the close of the proposed issuance or any subsequent issuance that is made in substantial conformity with the purchase priorities set forth in Part 563b.

(iii) In calculating the number of shares held by insiders and their associates under this provision, shares awarded but not delivered under an ESOP, MRP, or Option Plan that are attributable to such persons shall not be counted as being acquired by such persons.

(9) Provide that the amount of common stock that may be encompassed under all Option Plans and MRPs must not exceed, in the aggregate, 25 percent of the outstanding common stock held by persons other than the savings association's mutual holding company parent at the close of the proposed issuance.

* * * * *

(c) *Applicability of provisions of § 563b.500(a) to minority stock issuances.* Notwithstanding § 575.7(d) of this section, § 563b.500(a)(2) and (3) do not apply to minority stock issuances, because the permissible sizes of ESOPs, MRPs, and Option Plans in minority stock issuances are subject to each of the requirements set forth at paragraphs (a)(3) through (a)(9) of this section. Section 563b.500, paragraphs (a)(4) through (14), apply for one year after the savings association engages in a minority stock issuance that is conducted in accordance with the purchase priorities set forth in part 563b. In addition to the shareholder vote requirement for Option Plans and MRPs set forth at § 563b.500(a)(6), any Option Plans and MRPs put to a shareholder vote after a minority stock issuance that is conducted in accordance with the purchase priorities set forth in part 563b must be approved by a majority of the votes cast by stockholders other than the mutual holding company.

Dated: June 18, 2007.

By the Office of Thrift Supervision.

John M. Reich,

Director

[FR Doc. E7–12168 Filed 6–26–07; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 65

[Docket No. FAA–2007–27108; Amendment No. 65–50]

RIN 2120–AI83

Inspection Authorization 2-Year Renewal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On January 30, 2007, the FAA issued a direct final rule, ''Inspection Authorization 2-Year Renewal,'' which amended the renewal period for inspection authorizations and requested comments. This document responds to the comments received and confirms the effective date of the rule.

DATES: The effective date for the direct final rule published on January 30, 2007 (72 FR 4400) is confirmed as March 1, 2007.

ADDRESSES: The complete docket for the direct final rule on Inspection Authorization, Docket No. 27108 may be examined at *http://dms.dot.gov* at any time or go to the Docket Management Facility in Room W12–140 of the West Building, Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kim Barnette (AFS–350), Aircraft Maintenance Division, General Aviation and Avionics Branch, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 493–4922.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2007, the FAA published a direct final rule (72 FR 4933) amending the renewal period for inspection authorizations. The rule became effective on March 1, 2007.

The direct final rule is the product of discussions between industry representatives (including the Professional Aviation Maintenance Association) and the FAA. The discussions led to a consensus to change the 1-year inspection authorization renewal period to once every two years. Under the direct final rule, the expiration date of an inspection authorization changed from March 31 of each year to March 31 of each odd-numbered year. The intent of the rule is to relieve administrative costs associated with renewing inspection authorizations for both FAA and the IA holders without affecting safety.

The rule retains the annual activity requirement for each year of the 2-year IA period. Consistent with the annual aspects of the former rule, an IA holder must perform one of the five activities listed in § 65.93 (a)(1)–(5) during the first year of the 2-year IA period. A new paragraph (c) states if the IA holder does not complete one of those activities by March 31 of the first year, the holder may not exercise the inspection authorization privileges after that date. However, the holder may resume exercising IA privileges during the

second year if the IA holder passes an oral test given by an FAA inspector to determine if the holder's knowledge of applicable regulations and standards is current. If the holder passes the oral test, the FAA will consider the first year requirement completed. Each IA holder must also perform one of the five activities listed in § 65.93 (a)(1)–(5) during the second year of the inspection authorization period to be eligible for renewal.

Discussion of Comments

The FAA received approximately 60 comments in response to the IA renewal period direct final rule. The comments generally were supportive of the two-year renewal period. Commenters stated they were happy to see the FAA become actively involved in reviewing inspection authorization procedures and agreed that the change would result in time and money savings.

Many who commented favorably on the direct final rule also took the opportunity to recommend other and more significant changes to the regulations applicable to IA holders. Several commenters suggested completely restructuring the cycle for renewing IA holders to provide for individual expiration dates for each IA holder based on date of birth or the date of the initial grant of IA authority. A number of commenters said the annual activity requirement should be eliminated and a two-year period for the activity requirement should be established. The Aircraft Electronics Association (AEA) suggested the FAA establish a rating system for IA holders similar to the rating system for repair stations. Several comments addressed matters of the FAA's oversight of IA holders.

These comments will be evaluated by the FAA as it considers possible future actions to amend the rules relating to IAs, but they address matters beyond the limited scope of the direct final rule. The FAA could not adopt those proposals without further rulemaking, and the significance of those actions would require FAA to issue a notice of proposed rulemaking prior to amending the rule.

Three commenters misunderstood one provision in the rule. The rule permits an IA who fails to meet the annual activity requirement during the first year the option to take an oral test from an FAA inspector and thereafter exercise IA privileges during the remainder of the second year of the two-year IA period. For purposes of later renewal, the oral test would be counted as meeting the activity for the first year. (The individual also could choose to reapply for IA authority, the only means available under the prior rule when the activity requirement was not met.) The rule does not require, as these commenters thought, that all IA holders must take an oral test during the two-year IA renewal cycle to be able to renew their authority.

Several commenters mistakenly thought the rule requires each IA holder to submit a list of activities each year to the FAA that demonstrates the IA holder's compliance with the annual activity requirement. This is not the case. Rather, the rule requires an applicant for renewal every two years to present evidence of compliance with the annual activity requirement for each of the preceding two years.

A number of commenters expressed concern that some IA holders inadvertently may continue to exercise IA privileges into the second year of the two-year renewal period even though they failed to meet the annual activity requirement before March 31 of the first year. The FAA is aware of this possibility because similar events occurred under the prior rule. Each year under the old rule, a few IA holders failed to renew during March and then mistakenly continued to perform IA responsibilities. The instances were rare, and the FAA addressed them without significant difficulties as part of its routine oversight of IA holders.

There is a multi-decade history of the annual activity requirement for IA holders and nothing in the rule change disturbed that requirement. Indeed, not only was it retained, but the request for comments on this rule served as a way of reminding IA holders of the longstanding annual activity requirement. The FAA does not expect IA holders to perform differently or to lose sight of this core element of the rule simply because of the two-year renewal cycle. As in the past, the FAA will monitor compliance with the regulations and take enforcement action where appropriate. The FAA also will use the refresher course training curriculum as a way of ensuring that IA holders attending training are reminded of the rule requirement, and FAA inspectors will regularly address the matter in the context of their routine checks of IAs.

Finally, because 2008 will be the first year under the new two-year renewal cycle, FAA will remind each IA of the annual activity requirements for March 2008 through the FAA Information for Operations procedure.

Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. Amendment 65–50 remains in effect as adopted.

Issued in Washington, DC on June 20, 2007.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. E7–12453 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30557; Amdt. No. 3224]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective June 27, 2007. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2007.

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

For Examination—

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this

material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on June 15, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

** * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
6/13/07	NJ	NEWARK	NEWARK LIBERTY INTL	7/4255	RNAV (RNP) Y RWY 22L, ORIG–B.

[FR Doc. E7–12118 Filed 6–26–07; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 163, and 178

[USCBP–2007–0001]
[CBP Dec. 07–50]

RIN 1505–AB75

United States-Jordan Free Trade Agreement

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document amends title 19 of the Code of Federal Regulations (''CFR'') on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the U.S.-Jordan Free Trade Agreement entered into by the United States and the Hashemite Kingdom of Jordan.

DATES: Interim rule effective June 27, 2007; comments must be received by August 27, 2007.

ADDRESSES: You may submit comments, identified by *docket number,* by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2007–0001.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Seth Mazze, Office of International Trade (202–344–2634).

Legal Aspects: Holly Files, Office of International Trade (202–572–8817).

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

Background

On October 24, 2000, the United States and the Hashemite Kingdom of Jordan (the ''Parties'') signed the U.S.-Jordan Free Trade Agreement (''US–JFTA''), which is designed to eliminate tariffs and other trade barriers between the two countries. The provisions of the US–JFTA were adopted by the United States with the enactment on September 28, 2001 of the United States-Jordan Free Trade Area Implementation Act (the ''Act''), Public Law 107–43, 115 Stat. 243 (19 U.S.C. 2112 note). On December 7, 2001, the President signed Proclamation 7512 to implement the provisions of the US–JFTA. The Proclamation, which was published in the **Federal Register** on December 13, 2001 (66 FR 64497), modified the Harmonized Tariff Schedule of the United States (''HTSUS'') as set forth in Annexes I and II of the Proclamation. The modifications to the HTSUS included the addition of new General Note 18, incorporating the relevant US–JFTA rules of origin as set forth in the Act, and the insertion throughout the HTSUS of the preferential duty rates applicable to individual products under the US–JFTA where the special program indicator ''JO'' appears in parenthesis in the ''Special'' rate of duty subcolumn.

U.S. Customs and Border Protection (''CBP'') is responsible for administering the provisions of the US–JFTA and the Act that relate to the importation of goods into the United States from Jordan. Therefore, the regulations set forth in this document pertain specifically to US–JFTA customs-related provisions, such as rules of origin, that govern the duty-free or reduced-duty treatment of products imported into the United States from Jordan. These rules do not confer origin or establish a criterion for determining the origin of imported goods for any other purpose. For example, origin determinations for country of origin marking purposes under 19 U.S.C. 1304 are not affected.

Article 2 and Annex 2.2 of the US–JFTA set forth the rules of origin and documentary requirements that apply for purposes of obtaining preferential treatment under the US–JFTA. Annex 2.1 of the US–JFTA sets forth the terms for the immediate elimination or staged reduction of duties on products of Jordan, with all products to become duty free within a ten-year period (by the year 2010).

Under Annex 2.2 of the US–JFTA and § 102 of the Act, to be eligible for reduced or duty-free treatment under the US–JFTA, a good imported into the United States from Jordan must meet three basic requirements: (1) It must be imported directly from Jordan into the customs territory of the United States; (2) it must be a product of Jordan, *i.e.*, it must be either wholly the growth, product, or manufacture of Jordan or a new or different article of commerce that has been grown, produced, or manufactured in Jordan; and (3) if it is a new or different article of commerce, it must have a minimum domestic content, *i.e.*, at least 35 percent of its appraised value must be attributed to the cost or value of materials produced in Jordan plus the direct costs of processing operations performed in Jordan. Annex 2.2 of the US–JFTA further provides that: (1) The cost or value of U.S.-produced materials may be counted toward the Jordanian domestic content requirement to a maximum of 15 percent of the appraised value of the imported good; and (2) simple combining or packaging operations or mere dilution with water or another substance will confer neither Jordanian origin on an imported good nor Jordanian or U.S. origin on a constituent material of an imported good.

In addition, for purposes of demonstrating compliance with the origin criteria, Annex 2.2 of the US–

JFTA establishes the requirements for submitting a declaration, when requested by CBP, that provides all pertinent information concerning the production or manufacture of an imported good.

In this document, CBP is setting forth in a new Subpart K in Part 10 of title 19 of the Code of Federal Regulations (CBP regulations) on an interim basis, regulations to implement the preferential tariff treatment and other customs-related provisions of the US–JFTA.

The interim regulations are discussed in detail below.

Discussion of Amendments

Part 10, Subpart K

General Provisions

Section 10.701 outlines the scope of new Subpart K, Part 10, of the CBP regulations. This section also clarifies that, except where the context otherwise requires, the requirements contained in Subpart K, Part 10, are in addition to general administrative and enforcement provisions set forth elsewhere in the CBP regulations. Thus, for example, the specific merchandise entry requirements contained in Subpart K, Part 10, are in addition to the basic entry requirements contained in Parts 141–143 of the CBP regulations.

Section 10.702 sets forth definitions of terms or expressions used in multiple contexts or places within Subpart K, Part 10. The definition of ''wholly the growth, product, or manufacture of Jordan'' in paragraph (r) reflects the definition set forth in Annex 2.2 of the US–JFTA except that reference is made to ''Jordan'' rather than to a ''Party'' in order to reflect a U.S. import context. Additional definitions that apply in a more limited Subpart K, Part 10, context are set forth elsewhere with the substantive provisions to which they relate.

Import Requirements

Section 10.703 sets forth the procedure for claiming US–JFTA preferential tariff treatment at the time of importation. Unlike certain other free trade agreements to which the United States is a Party, such as the North American Free Trade Agreement (NAFTA) and the United States-Chile Free Trade Agreement (US–CFTA), the US–JFTA does not specify a procedure for making a post-importation claim. Therefore, Subpart K, Part 10, contains no regulatory provisions governing such claims. However, a protest against an alleged error in the liquidation of an entry may be brought under the normal procedures to contest a denial of US–JFTA benefits (*see* Part 174, CBP regulations (19 CFR Part 174)).

Section 10.704, as provided in Annex 2.2, paragraph 10(b), of the US–JFTA, requires a U.S. importer, upon request, to submit a declaration setting forth all pertinent information concerning the production or manufacture of the good. Section 10.705 sets forth certain importer obligations regarding the truthfulness of information and documents submitted in support of a claim for preferential tariff treatment.

Section 10.706 provides that the importer's declaration is not required for certain non-commercial or low-value importations.

Section 10.707 implements the portion of Annex 2.2, paragraph 10(b) of the US–JFTA concerning the maintenance of records necessary for the preparation of the declaration.

Section 10.708 provides for the denial of US–JFTA tariff benefits if the importer fails to comply with any of the requirements under Subpart K, Part 10, CBP regulations.

Rules of Origin

Section 10.709 sets forth the basic country of origin rules for obtaining preferential tariff treatment under the US–JFTA, as set forth in Annex 2.2 of the US–JFTA, § 102 of the Act, and General Note 18, HTSUS. Paragraph (a)(1) requires an eligible US–JFTA good to be either ''wholly the growth, product, or manufacture of Jordan'' or ''new or different article of commerce which has been grown, produced, or manufactured in Jordan,'' reflecting standards set forth in Annex 2.2, paragraph 1(a), of the US–JFTA and § 102(a)(1)(A)(ii) of the Act. Paragraph (a)(2) of § 10.709 references the value-content requirement set forth in Annex 2.2, paragraph 1(c), of the US–JFTA and § 102(a)(1)(B) of the Act.

Paragraph (b)(1) of § 10.709 implements Annex 2.2, paragraph 2, of the US–JFTA and § 102(a)(2) of the Act, relating to the simple combining or packaging or mere dilution exceptions to the ''new or different article of commerce'' requirement. Since the language in the US–JFTA and the Act in this regard is identical to that used in the Caribbean Basin Economic Recovery Act (''CBERA'') (*see* 19 U.S.C. 2703(a)(2)), paragraph (b)(1) incorporates by reference the examples and principles set forth in § 10.195(a)(2) of CBP's implementing CBERA regulations (19 CFR 10.195(a)(2)). Paragraph (b)(2) reflects the exception to the ''new or different article of commerce'' requirement set forth in the footnote to Annex 2.2, paragraph 4, of the US–JFTA and in § 102(d) of the Act, relating to the processing of certain fruits into juices.

Paragraph (c) of § 10.709 provides that the rules of origin for textile and apparel products found in § 102.21 of the CBP regulations (19 CFR 102.21) will be used to determine whether textile and apparel goods from Jordan satisfy the ''wholly the growth, product, or manufacture'' or ''new or different article of commerce'' requirements of § 10.709(a), consistent with Annex 2.2, paragraph 9, of the US–JFTA and § 102(c) of the Act.

Section 10.710 sets forth provisions relating to the 35 percent value-content requirement of the US–JFTA. Paragraph (a) specifies the basic requirement contained in Annex 2.2, paragraph 1(c), of the US–JFTA and § 102(a)(1)(B)(i) of the Act.

Paragraph (b) allows the inclusion of U.S.-produced materials up to 15 percent of the appraised value, as provided for in Annex 2.2, paragraph 5, of the US–JFTA and § 102(a)(1)(B)(ii) of the Act. Paragraph (c) concerns the cost or value of materials that may be applied toward satisfaction of the 35 percent value-content requirement and is based on provisions contained in the US–JFTA, the Act, and § 10.196 of CBP's CBERA regulations (19 CFR 10.196). Paragraph (c)(1) defines ''materials produced in Jordan'' in a manner similar to the approach taken in section 10.196(a) of CBP's CBERA regulations. Paragraph (c)(1)(ii) was specifically drafted to reflect: (1) The application of the simple combining or packaging or mere dilution language to materials, as provided in Annex 2.2, paragraph 2, of the US–JFTA; and (2) the country of origin language which also applies to materials under Annex 2.2, paragraph 4, of the US–JFTA. The last sentence of paragraph (c)(1)(ii) refers to the useful examples contained in § 10.196(a) of CBP's CBERA regulations, and the words ''except where the context otherwise requires'' are intended to alert the reader to the fact that some aspects of those examples apply only in a CBERA context. Paragraph (c)(2) sets forth the elements includable under the cost or value of materials, as provided in Annex 2.2, paragraph 6, of the US–JFTA.

Paragraph (d) sets forth provisions regarding direct costs of processing operations for purposes of the 35 percent value-content requirement, as contained in Annex 2.2, paragraph 7, of the US–JFTA and § 102(b) of the Act.

Section 10.711 reflects the definition of ''imported directly,'' as set forth in Annex 2.2, paragraph 8, of the US–JFTA.

Section 10.712 provides that claims for preferential tariff treatment under the US–JFTA will be subject to such verification as the CBP port director deems necessary.

Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (''APA'') (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment procedures and delayed effective date provisions of 5 U.S.C. 553(d) do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these interim regulations involve a foreign affairs function of the United States because they implement preferential tariff treatment and related provisions of the US–JFTA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication. However, CBP is soliciting comments in this interim rule and will consider all comments it receives before issuing a final rule.

Executive Order 12866 and Regulatory Flexibility Act

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, CBP notes that the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, CBP also notes that this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0128.

The collections of information in these regulations are in §§ 10.703 and 10.704. This information is required in connection with claims for preferential tariff treatment and for the purpose of the exercise of other rights under the US–JFTA and the Act and will be used by CBP to determine eligibility for a tariff preference or other rights or benefits under the US–JFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting burden: 500.

Estimated average annual burden per respondent: 12 minutes.

Estimated number of respondents: 2,500.

Estimated annual frequency of responses: 1.

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Signing Authority

This document is being issued in accordance with section 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Exports, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements (United States-Jordan Free Trade Agreement).

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

■ Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for part 10 continues to read and the specific authority for new Subpart K is added to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.701 through 10.712 also issued under 19 U.S.C. 1202 (General Note 18, HTSUS) and Pub. L. 107–43, 115 Stat. 243 (19 U.S.C. 2112 note).

■ 2. Part 10, CBP regulations, is amended by adding Subpart K to read as follows:

Subpart K—United States-Jordan Free Trade Agreement

General Provisions

Sec.
10.701 Scope.
10.702 Definitions.

Import Requirements

10.703 Filing of claim for preferential tariff treatment.
10.704 Declaration.
10.705 Importer obligations.
10.706 Declaration not required.
10.707 Maintenance of records.
10.708 Effect of noncompliance; failure to provide documentation regarding third-country transportation.

Rules of Origin

10.709 Country of origin criteria.
10.710 Value-content requirement.
10.711 Imported directly.

Origin Verifications

10.712 Verification of claim for preferential tariff treatment.

Subpart K—United States-Jordan Free Trade Agreement

General Provisions

§ 10.701 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States-Jordan Free

Trade Agreement (the US–JFTA) signed on October 24, 2000, and under the United States-Jordan Free Trade Area Implementation Act (the Act; 115 Stat. 243). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the US–JFTA are contained in Part 163 of this chapter.

§ 10.702 Definitions.

The following definitions apply for purposes of §§ 10.701 through 10.712:

(a) *Claim for preferential tariff treatment.* ''Claim for preferential tariff treatment'' means a claim that a good is entitled to the duty rate applicable under the US–JFTA;

(b) *Customs authority.* ''Customs authority'' means the competent authority that is responsible under the law of a country for the administration of customs laws and regulations;

(c) *Customs territory of the United States.* ''Customs territory of the United States'' means the 50 states, the District of Columbia, and Puerto Rico;

(d) *Days.* ''Days'' means calendar days unless otherwise specified;

(e) *Entered.* ''Entered'' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States;

(f) *Good.* ''Good'' means any merchandise, product, article, or material;

(g) *Harmonized System.* ''Harmonized System'' means the *Harmonized Commodity Description and Coding System,* including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(h) *Heading.* ''Heading'' means the first four digits in the tariff classification number under the Harmonized System;

(i) *HTSUS.* ''HTSUS'' means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(j) *Material.* ''Material'' means a good that is used in the production of another good;

(k) *New or different article of commerce.* ''New or different article of commerce'' means a good that has been substantially transformed into a new and different article of commerce having a new name, character, or use distinct from the good or material from which it was so transformed;

(l) *Party.* ''Party'' means the United States or the Hashemite Kingdom of Jordan;

(m) *Preferential tariff treatment.* ''Preferential tariff treatment'' means the duty rate applicable under the US–JFTA;

(n) *Subheading.* ''Subheading'' means the first six digits in the tariff classification number under the Harmonized System;

(o) *Territory.* ''Territory'' means:

(1) With respect to Jordan, the land, maritime and air space under its sovereignty, and the exclusive economic zone within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law; and

(2) With respect to the United States,

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico,

(ii) The foreign trade zones located in the United States and Puerto Rico, and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;

(p) *Textile or apparel good.* ''Textile or apparel good'' means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as ''the ATC''), which is part of the WTO Agreement;

(q) *WTO Agreement.* ''WTO Agreement'' means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994;

(r) *Wholly the growth, product, or manufacture of Jordan.* ''Wholly the growth, product, or manufacture of Jordan'' refers both to any good which has been entirely grown, produced, or manufactured in Jordan and to all materials incorporated in a good which have been entirely grown, produced, or manufactured in Jordan, as distinguished from goods or materials imported into Jordan from another country, whether or not such goods or materials were substantially transformed into new or different articles of commerce after their importation into Jordan.

Import Requirements

§ 10.703 Filing of claim for preferential tariff treatment.

An importer may make a claim for US–JFTA preferential tariff treatment by including on the entry summary, or equivalent documentation, the symbol ''JO'' as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

§ 10.704 Declaration.

(a) *Contents.* An importer who claims preferential tariff treatment for a good under the US–JFTA must submit, at the request of the port director, a declaration setting forth all pertinent information concerning the production or manufacture of the good. A declaration submitted to CBP under this paragraph:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must include the following information:

(i) The legal name, address, telephone, and e-mail address (if any) of the importer of record of the good;

(ii) The legal name, address, telephone, and e-mail address (if any) of the responsible official or authorized agent of the importer signing the declaration (if different from the information required by paragraph (a)(2)(i) of this section);

(iii) The legal name, address, telephone and e-mail address (if any) of the exporter of the good (if different from the producer);

(iv) The legal name, address, telephone and e-mail address (if any) of the producer of the good (if known);

(v) A description of the good, quantity, numbers, and marks of packages, invoice numbers, and bills of lading;

(vi) A description of the operations performed in the production of the good in Jordan and identification of the direct costs of processing operations;

(vii) A description of any materials used in the production of the good that are wholly the growth, product, or manufacture of Jordan or the United States, and a statement as to the cost or value of such materials;

(viii) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the good that are claimed to have been sufficiently processed in Jordan so as to be materials produced in Jordan; and

(ix) A description of the origin and cost or value of any foreign materials used in the good that have not been substantially transformed in Jordan.

(3) Must include a statement, in substantially the following form:

''I certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain, and present upon request, documentation necessary to support these representations;

The goods comply with all the requirements for preferential tariff treatment specified for those goods in the United States-Jordan Free Trade Agreement; and

This document consists of ____ pages, including all attachments.''

(b) *Responsible official or agent.* The declaration must be signed and dated by a responsible official of the importer or by the importer's authorized agent having knowledge of the relevant facts.

(c) *Language.* The declaration must be completed in the English language.

(d) *Applicability of declaration.* The declaration may be applicable to:

(1) A single importation of a good into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(2) Multiple importations of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the declaration. For purposes of this paragraph, ''identical goods'' means goods that are the same in all respects relevant to the production that qualifies the goods for preferential tariff treatment.

§ 10.705 Importer obligations.

(a) *General.* An importer who makes a claim for preferential tariff treatment under § 10.703 of this subpart:

(1) Will be deemed to have certified that the good is eligible for preferential tariff treatment under the US–JFTA:

(2) Is responsible for the truthfulness of the information and data contained in the declaration provided for in § 10.704 of this subpart;

(3) Is responsible for submitting any supporting documents requested by CBP and for the truthfulness of the information contained in those documents. CBP will allow for the direct submission by the exporter or producer of business confidential or other sensitive information, including cost and sourcing information.

(b) *Information provided by exporter or producer.* The fact that the importer has made a claim for preferential tariff treatment or prepared a declaration based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in paragraph (a) of this section.

§ 10.706 Declaration not required.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a declaration under § 10.704 of this subpart for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the goods does not exceed U.S. $2,500.

(b) *Exception.* If the port director determines that an importation described in paragraph (a) of this section may reasonably be considered to have been carried out or planned for the purpose of evading compliance with the rules and procedures governing claims for preference under the US–JFTA, the port director will notify the importer that for that importation the importer must submit to CBP a declaration. The importer must submit such a declaration within 30 days from the date of the notice. Failure to timely submit the declaration will result in denial of the claim for preferential tariff treatment.

§ 10.707 Maintenance of records.

(a) *General.* An importer claiming preferential tariff treatment for a good under § 10.703 of this subpart must maintain, for five years after the date of the claim for preferential tariff treatment, all records and documents necessary for the preparation of the declaration.

(b) *Applicability of other recordkeeping requirements.* The records and documents referred to in paragraph (a) of this section are in addition to any other records required to be made, kept, and made available to CBP under Part 163 of this chapter.

(c) *Method of maintenance.* The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in § 163.5 of this chapter.

§ 10.708 Effect of noncompliance; failure to provide documentation regarding third-country transportation.

(a) *Effect of noncompliance.* If the importer fails to comply with any requirement under this subpart, including submission of a complete declaration under § 10.704 of this subpart, when requested, the port director may deny preferential tariff treatment to the imported good.

(b) *Failure to provide documentation regarding third country transportation.* Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential treatment to a good if the good is shipped through or transshipped in a country other than Jordan or the United States, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the good was ''imported directly'', as that term is defined in § 10.711(a) of this subpart.

Rules of Origin

§ 10.709 Country of origin criteria.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, a good imported directly from Jordan into the customs territory of the United States will be eligible for preferential tariff treatment under the US–JFTA only if:

(1) The good is either:

(i) Wholly the growth, product, or manufacture of Jordan; or

(ii) A new or different article of commerce that has been grown, produced, or manufactured in Jordan; and

(2) With respect to a good described in paragraph (a)(1)(ii) of this section, the good satisfies the value-content requirement specified in § 10.710 of this subpart.

(b) *Exceptions*—(1) *Combining, packaging, and diluting operations.* No good will be considered to meet the requirements of paragraph (a)(1) of this section by virtue of having merely undergone simple combining or packaging operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the good. The principles and examples set forth in § 10.195(a)(2) of this part will apply equally for purposes of this paragraph.

(2) *Certain juices.* A good will not be considered to meet the requirements of paragraph (a)(1) of this section if the good:

(i) Is imported into Jordan, and, at the time of importation, would be classified in heading 0805, HTSUS; and

(ii) Is processed in Jordan into a good classified in any of subheadings 2009.11 through 2009.30, HTSUS.

(c) *Textile and apparel goods.* For purposes of determining whether a textile or apparel good meets the requirements of paragraph (a)(1) of this section, the provisions of § 102.21 of this chapter will apply.

§ 10.710 Value-content requirement.

(a) *General.* A good described in § 10.709(a)(1)(ii) may be eligible for preferential tariff treatment under the US–JFTA only if the sum of the cost or value of the materials produced in Jordan, plus the direct costs of processing operations performed in Jordan, is not less than 35 percent of the appraised value of the good at the time it is entered.

(b) *Materials produced in the United States.* For purposes of determining the percentage referred to paragraph (a) of

this section, an amount not to exceed 15 percent of the appraised value of the good at the time it is entered may be attributed to the cost or value of materials produced in the customs territory of the United States. A material is ''produced in the customs territory of the United States'' for purposes of this paragraph if it is either:

(1) Wholly the growth, product, or manufacture of the United States; or

(2) Subject to the exceptions specified in § 10.709(b) of this subpart, substantially transformed in the United States into a new and different article of commerce that has a new name, character, or use, which is then used in Jordan in the production or manufacture of a new or different article of commerce that is imported into the United States. Except where the context otherwise requires, the examples set forth in § 10.196(a) of this part will apply for purposes of this paragraph.

(c) *Cost or value of materials*—(1) *Materials produced in Jordan defined.* For purposes of paragraph (a) of this section, the words ''materials produced in Jordan'' refer to those materials incorporated into a good that are either:

(i) Wholly the growth, product, or manufacture of Jordan; or

(ii) Subject to the exceptions specified in § 10.709(b) of this subpart, substantially transformed in Jordan into a new and different article of commerce that has a new name, character, or use, which is then used in Jordan in the production or manufacture of a new or different article of commerce that is imported into the United States. Except where the context otherwise requires, the examples set forth in § 10.196(a) of this part will apply for purposes of this paragraph.

(2) *Determination of cost or value of materials.* (i) Except as provided in paragraph (c)(2)(ii) of this section, the cost or value of materials produced in Jordan or in the United States includes:

(A) The manufacturer's actual cost for the materials;

(B) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(C) The actual cost of waste or spoilage, less the value of recoverable scrap; and

(D) Taxes and/or duties imposed on the materials by a Party, provided they are not remitted upon exportation.

(ii) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value will be determined by computing the sum of:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(B) An amount for profit; and

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

(iii) If the pertinent information needed to compute the cost or value of a material is not available, the port director may ascertain or estimate the value thereof using all reasonable ways and means at his or her disposal.

(d) *Direct costs of processing operations*—(1) *Items included.* For purposes of paragraph (a) of this section, the words ''direct costs of processing operations'' mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific goods under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of the imported goods:

(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific goods, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific goods;

(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific goods; and

(iv) Costs of inspecting and testing the specific goods.

(2) *Items not included.* For purposes of paragraph (a) of this section, the words ''direct costs of processing operations'' do not include items that are not directly attributable to the goods under consideration or are not costs of manufacturing the product. These include, but are not limited to:

(i) Profit; and

(ii) General expenses of doing business that either are not allocable to the specific goods or are not related to the growth, production, manufacture, or assembly of the goods, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

§ 10.711 Imported directly.

(a) *General.* To be eligible for preferential tariff treatment under the US–JFTA, a good must be imported directly from Jordan into the customs territory of the United States. For purposes of this requirement, the words ''imported directly'' mean:

(1) Direct shipment from Jordan to the United States without passing through the territory of any intermediate country;

(2) If shipment is from Jordan to the United States through the territory of an intermediate country, the goods in the shipment do not enter into the commerce of the intermediate country and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, the goods in the shipment are imported directly only if they:

(i) Remained under the control of the customs authority in the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail, provided that the goods are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) Have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the goods in good condition.

(b) *Documentary evidence.* An importer making a claim for preferential tariff treatment under the US–JFTA may be required to demonstrate, to CBP's satisfaction, that the goods were ''imported directly'' as that term is defined in paragraph (a) of this section. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

Origin Verifications

§ 10.712 Verification of claim for preferential treatment.

A claim for preferential tariff treatment made under § 10.703 of this subpart, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director for any reason is prevented from verifying the claim, or is provided with insufficient information to verify or substantiate the claim, the port director may deny the claim for preferential tariff treatment.

PART 163—RECORDKEEPING

■ 3. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510,1624.

* * * * *

■ 4. Section 163.1(a)(2) is amended by redesignating paragraph (a)(2)(viii) as (a)(2)(ix) and adding a new paragraph (viii) to read as follows:

§ 163.1 Definitions.

* * * * *

(a) * * *

(2) * * *

(viii) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Jordan Free Trade Agreement (US–JFTA), including a US–JFTA declaration.

* * * * *

■ 5. The Appendix to part 163 is amended by adding a new listing under section IV in numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List.

* * * * *

IV. * * *

§ 10.704 US–JFTA records that the importer may have in support of a US–JFTA claim for preferential tariff treatment, including an importer's declaration.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 6. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 7. Section 178.2 is amended by adding new listings for §§ 10.703 and 10.704 to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
* *	* * * *	*
§§ 10.703 and 10.704	Claim for preferential tariff treatment under the U.S.-Jordan Free Trade Agreement	1651–0128.
* *	* * * *	*

* * * * *

Deborah J. Spero,

Acting Commissioner, Customs and Border Protection.

Approved: June 21, 2007.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 07–3133 Filed 6–26–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–071]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From Rockaway Inlet to Shinnecock Canal, Atlantic Beach, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Atlantic Beach Bridge, mile 0.4, across Reynolds Channel at Atlantic Beach, New York. Under this temporary deviation a one-hour advance notice will be required for bridge openings between 7 a.m. and 3:30 p.m., Monday through Friday, from July 23, 2007 through August 3, 2007. This deviation is necessary to facilitate bridge steel deck grating replacement.

DATES: This deviation is effective from 7 a.m. on July 23, 2007 through 3:30 p.m. August 3, 2007.

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

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

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

The owner of the bridge, Nassau County Bridge Authority, requested a temporary deviation to facilitate the replacement of steel deck grating at the bridge.

Under this temporary deviation, from July 23, 2007 through August 3, 2007, a one-hour advance notice for bridge openings shall be required between 7 a.m. and 3:30 p.m., Monday through Friday, at the Atlantic Beach Bridge, mile 0.4, across Reynolds Channel, at Atlantic Beach, New York. Notice may be given by calling the bridge tender on VHF channel 13, or by telephone at (516) 239–1821.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 18, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–12372 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–040]

RIN 1625–AA00

Safety Zone; Ferrier Picnic, Lake Erie, Fairview, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie, Fairview, PA. This zone is intended to restrict vessels from a portion of Lake Erie during the Fairview

Picnic fireworks display on July 1, 2007. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9:30 p.m. to 9:45 p.m. on July 1, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–07–040 and are available for inspection or copying at U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 8 a.m. and 3 p.m. Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, U.S. Coast Guard Sector Buffalo; (716) 843–9573.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port Zones, and the explosive hazards of fireworks, the Captain of the Port Buffalo has determined that fireworks launches proximate to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Ferrier Picnic fireworks display. The fireworks display will occur between 9:30 p.m. and 9:45 p.m. on July 1, 2007.

The safety zone for the fireworks will encompass all waters of Lake Erie, Fairview, PA within a three hundred foot radius of position 42°04′19″ N, 080°14′40″ W. [DATUM: NAD 83].

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port Buffalo or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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

This determination is based on the minimal time that vessels will be restricted from the safety zone and the safety zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the safety zone's activation.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of Lake Erie, Fairview, PA between 9:30 p.m. and 9:45 p.m. on July 1, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for fifteen minutes for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that this safety zone and fishing rights protection need not be incompatible. We have also determined that this Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

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

Technical Standards

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

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

Environment

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

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–040 is added as follows:

§ 165.T09–040 Safety zone; Ferrier Picnic, Lake Erie, Fairview, PA.

(a) *Location.* The following area is a temporary safety zone: All waters and the shoreline of Lake Erie, Fairview, PA within a three hundred foot radius of position 42°04′19″ N, 080°14′40″ W. [DATUM: NAD 83].

(b) *Enforcement period.* This regulation will be enforced from 9:30 p.m. to 9:45 p.m. on July 1, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port Buffalo will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his designated on-scene representative may be contacted via VHF Channel 16.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 11, 2007.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E7–12401 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–080]

RIN 1625–AA00

Safety Zone; Port Jefferson Fireworks, Long Island Sound, Port Jefferson, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Port Jefferson Fireworks on East Beach in Port Jefferson, NY. The safety zone is necessary to protect the life and property of the maritime community from the hazards posed by the fireworks display. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port, Long Island Sound.

DATES: This rule is effective from 8 p.m. on July 4, 2007 until 11 p.m. on July 5, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD01–07–080 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard did not receive an Application for Approval of Marine Event for this event with sufficient time to implement an NPRM. A delay or cancellation of the fireworks display in order to accommodate a full notice and comment period would be contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of Long Island Sound off East Beach, Port Jefferson, NY and to protect the maritime public from the hazards associated with this fireworks event.

The temporary zone should have minimal negative impact on the public and navigation because it will be enforced for a three hour period on only one of two specified days. In addition, the area closed by the safety zone is minimal, allowing vessels to transit around the zone in Long Island Sound off Port Jefferson, NY.

Background and Purpose

The Port Jefferson Fireworks display will take place on East Beach, Port Jefferson, NY from 8 p.m. to 11 p.m. on July 4, 2007. If the fireworks display is cancelled due to inclement weather on July 4, 2007, it will take place during the same hours on July 5, 2007. This safety zone is necessary to protect the life and property of the maritime public from the hazards posed by the fireworks display. It will protect the maritime public by prohibiting entry into or movement within this portion of Long Island Sound one hour prior to, during and one hour after the stated event.

Discussion of Rule

This regulation establishes a temporary safety zone on the navigable waters of Long Island Sound off East Beach, Port Jefferson, NY within a five hundred foot radius of the fireworks launch site located at approximate position 40°57′53.189″ N, 073°03′9.72″ W. The temporary safety zone will be outlined by temporary marker buoys installed by the event organizers.

This action is intended to prohibit vessel traffic in a portion of Long Island Sound off East Beach, Port Jefferson, NY to provide for the protection of life and property of the maritime public. The safety zone will be enforced from 8 p.m. until 11 p.m. on July 4, 2007. Alternatively, if the fireworks display is cancelled due to inclement weather on July 4, 2007, the zone will be enforced during the same hours on July 5, 2007. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the rest of Long Island Sound except for the portion delineated by this rule.

The Captain of the Port anticipates minimal negative impact on vessel traffic due to this event because of the safety zone's small size and duration. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

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

This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels will only be excluded from the area of the safety zone for 3 hours; and vessels will be able to operate in other areas of Long Island Sound off Port Jefferson, NY during the enforcement period.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in those portions of Long Island Sound off Port Jefferson, NY covered by the safety zone. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you

wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about the rule or any policy of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T01–080 to read as follows:

§ 165.T01–080 Safety Zone; Port Jefferson Fireworks, Port Jefferson, NY.

(a) *Location.* The following area is a safety zone: All navigable waters of Long Island Sound off of East Beach, Port Jefferson, NY, from surface to bottom, within a 500 foot radius of the fireworks launch site located in approximate position 40°57′53.189″ N, 073°03′9.72″ W.

(b) *Definitions.* The following definitions apply to this section: *Designated on-scene patrol personnel,* means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels in the enforcement of this safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Long, Island Sound or his designated on-scene patrol personnel.

(3) All persons and vessels shall comply with the orders of the Coast Guard Captain of the Port or designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Persons and vessels may request permission to enter the zone on VHF–16 or via phone at (203) 468–4401.

(d) *Enforcement period.* This section will be enforced from 8 p.m. to 11 p.m. on Wednesday, July 4, 2007 and if the

fireworks display is postponed, it will be enforced from 8 p.m. to 11 p.m. on Thursday, July 5, 2007.

Dated: June 15, 2007.

D.A. Ronan,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. E7–12379 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–038]

RIN 1625–AA00

Safety Zone; City of Syracuse Fireworks, Syracuse Inner Harbor, Syracuse, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Syracuse Inner Harbor, Syracuse, NY. This zone is intended to restrict vessels from a portion of the Syracuse Inner Harbor during the City of Syracuse Fireworks Celebration on June 29, 2007 Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9:30 p.m. to 10:30 p.m. on June 29, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–07–038 and are available for inspection or copying at U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, U.S. Coast Guard Sector Buffalo; (716) 843–9573.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Buffalo has determined that fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the City of Syracuse fireworks display. The fireworks display will occur between 9:30 p.m. and 10:30 p.m. on June 29, 2007.

The safety zone for the fireworks will encompass all waters of the Syracuse Inner Harbor and Onondaga Lake within a three hundred fifty foot radius of position 43°03′37″ N, 076°09′59″ W. [DATUM: NAD 83].

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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

This determination is based on the minimal time that vessels will be restricted from the safety zone and the safety zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the safety zone's activation.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of the Syracuse Harbor, Syracuse, NY between 9:30 p.m. and 10:30 p.m. on June 29, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only one hour. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that this safety zone and fishing rights protection need not be incompatible. We have also determined that this Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

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

Technical Standards

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

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

Environment

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

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–038 is added as follows:

§ 165.T09–038 Safety zone; City of Syracuse Fireworks Celebration, Syracuse Inner Harbor, Syracuse, NY.

(a) *Location.* The following area is a temporary safety zone: All waters of the Syracuse Inner Harbor and Onondaga Lake in a three hundred fifty foot radius of position 43°03′ 37″ N, 076°09′ 59″ W. [DATUM: NAD 83].

(b) *Effective period.* This regulation is effective from 9:30 p.m. to 10:30 p.m. on June 29, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act

on his behalf. The on-scene representative of the Captain of the Port Buffalo will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his designated on-scene representative may be contacted via VHF Channel 16.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 11, 2007.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E7–12369 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–074]

RIN 1625–AA00

Safety Zone; Cancer Center for Kids, Bayville, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Cancer Center for Kids Fireworks in Bayville, NY. The safety zone is necessary to protect the life and property of the maritime community from the hazards posed by the fireworks display. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port, Long Island Sound.

DATES: This rule is effective from 8 p.m. to 11 p.m. on June 30, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–074 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard did not receive an Application for Approval of Marine Event for this event with sufficient time to implement an NPRM, thereby making an NPRM impracticable and contrary to the public interest. A delay or cancellation of the fireworks display in order to accommodate a full notice and comment period would be contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of Bayville, NY and to protect the maritime public from the hazards associated with this fireworks event.

Background and Purpose

The Cancer Center for Kids Fireworks display will be taking place in Bayville, NY from 8 p.m. to 11 p.m. on June 30, 2007. This safety zone is necessary to protect the life and property of the maritime public from the hazards posed by the fireworks display. It will protect the maritime public by prohibiting entry into or movement within the navigable waters of this portion of Long Island Sound one hour prior to, during and one hour after the stated event.

Discussion of Rule

This regulation establishes a temporary safety zone on the navigable waters of Bayville, NY within a 600-foot radius of the fireworks barge located at approximate position 40°55′19.8587″ N, 073°34′41.9700″ W. The temporary safety zone will be outlined by temporary marker buoys installed by the event organizers.

This action is intended to prohibit vessel traffic in a portion of Bayville, NY to provide for the protection of life and property of the maritime public. The safety zone will be enforced from 8 p.m. until 11 p.m. on June 30, 2007. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the rest of Long Island Sound except for the portion delineated by this rule.

The Captain of the Port anticipates minimal negative impact on vessel traffic from this event due to the limited area and duration covered by this safety zone. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

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

This regulation should have minimal negative impact on the public and navigation because it is only effective for a three hour period on a single day. In addition, the area closed by the safety zone is minimal, allowing vessels to transit around the zone in Bayville, NY.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in those portions of Long Island Sound covered by the safety zone. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule will affect your

small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant D. Miller, Chief, Waterways Management Division, Sector Long Island Sound, at (203) 468–4596.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1225 and 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T01–074 to read as follows:

§ 165.T01–074—Safety Zone: Cancer Center for Kids, Bayville NY.

(a) *Location.* The following area is a safety zone: All navigable waters of Long Island Sound off of Bayville Avenue in Bayville, NY within a 600–foot radius of the fireworks barge located in approximate position 40°55′19.8587″ N, 073°34′41.9700″ W.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Long, Long Island Sound.

(3) All persons and vessels shall comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel. These personnel comprise commissioned, warrant and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(c) *Enforcement period.* This section will be enforced from 8 p.m. to 11 p.m. on Saturday, June 30, 2007.

Dated: June 15, 2007.

D.A. Ronan,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. E7–12366 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–036]

RIN 1625–AA00

Safety Zone: Hingham 4th of July Fireworks Display, Hingham, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Town of Hingham Fourth of July Fireworks on July 1, 2007. The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of Hingham Inner Harbor during its closure period.

DATES: This rule is effective from 8:45 p.m. on July 1, 2007 until 11 p.m. on July 2, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01–07–036 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. As the fireworks display is scheduled to occur on July 1, 2007, any delay encountered in the regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of Hingham Inner Harbor during the fireworks display thus ensuring that the maritime public is protected from any potential harm associated with such an event. Additionally, the zone should have negligible impact on vessel transits due to the fact that vessels will be limited from the area for only two hours and fifteen minutes and vessels can still transit in the majority of Hingham Inner Harbor during the event. Accordingly, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM.

For the same reasons, the Coast Guard finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

This rule establishes a safety zone on the navigable waters of Hingham Inner Harbor within a 500-yard radius of the fireworks barge located at approximate position 42°015.30′ N, 070 °53.02′ W. The safety zone is in effect from 8:45 p.m. until 11 p.m. on July 1, 2007. The rain date for the fireworks event is from 8:45 p.m. until 11 p.m. on July 2, 2007.

The safety zone temporarily restricts movement within this portion of Hingham Inner Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the zone during the enforcement period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to the event. Public notification will be made prior to the enforcement period via marine information broadcasts and Local Notice to Mariners.

Regulatory Evaluation

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

Although this rule prevents vessel traffic from transiting a portion of Hingham Inner Harbor during the enforcement period, the effects of this regulation will not be significant for several reasons: vessels will be excluded from the proscribed area for only two hours and fifteen minutes, vessels will be able to operate in the majority of Hingham Inner Harbor during the effective period, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Hingham Inner Harbor from 8:45 p.m. until 11 p.m. on July 1, 2007. The rain date for the fireworks event is from 8:45 p.m. until 11 p.m. on July 2, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only two hours and fifteen minutes, vessel traffic can safely pass around the zone, and advance notification will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions

annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T01–036 to read as follows:

§ 165.T07–036 Safety Zone; Town of Hingham 4th of July Fireworks Display, Hingham Inner Harbor, Massachusetts.

(a) *Location.* The following area is a safety zone: All navigable waters of Hingham Inner Harbor within a 500-yard radius of the fireworks barge located at approximate position 42°015.30′ N, 070°53.02′ W.

(b) *Enforcement Period.* This section will be enforced from 8:45 p.m. until 11 p.m. on July 1, 2007. The rain date for the fireworks event is from 8:45 p.m. until 11 p.m. on July 2, 2007.

(c) *Definitions.* (1) As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel authorized to act on behalf of the Captain of the Port, Boston (COTP), and a Federal, State, and local officer designated by or assisting the COTP.

(2) [Reserved]

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

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

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative on VHF Channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, vessel operators must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: May 25, 2007.

James L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. E7–12368 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–073]

RIN 1625–AA00

Safety Zone: Salem Harbor Celebrates The 4th of July Fireworks—Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the ''Salem Harbor Celebrates the 4th of July Fireworks'' display on July 4, 2007, in Salem, Massachusetts. The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of the Pickering Wharf Channel during its closure period.

DATES: This rule is effective from 8:45 p.m. until 10:15 p.m. on July 4, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–073 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Joseph Yonker, Sector Boston, Waterways Safety and Response Division, at (617) 223–5007.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. An NPRM was not published for this regulation because the logistics with respect to the fireworks presentation were not determined with sufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of the Pickering Wharf Channel during the fireworks display and to provide for the safety of life on navigable waters.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of the Pickering Wharf Channel during the fireworks event thus ensuring that the maritime public is protected from any potential harm associated with such an event. The safety zone should have a minimal negative impact on vessel transits in the Pickering Wharf Channel because vessels will be excluded from the area for only one and a half hours, and vessels can still operate in other areas of the channel during the event.

Background and Purpose

''City of Salem'', the organization responsible for Salem Celebrates the 4th of July, is holding a fireworks display in honor of Independence Day. This rule establishes a temporary safety zone on the navigable waters of the Pickering Wharf Channel within a four hundred (400) yard radius of the fireworks launch site located at approximate position 42°31.05′ N, 070°52.05′ W. This safety zone is necessary to protect the maritime public from the dangers posed by this event. It will protect the public by prohibiting entry into or movement within the proscribed portion of the Pickering Wharf Channel during the fireworks display.

Marine traffic may transit safely outside of the safety zone during the enforcement period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notification will be made prior to and during the effective period via marine information broadcasts and Local Notice to Mariners.

Discussion of Rule

This rule is effective from 8:45 p.m. until 10:15 p.m. on July 4, 2007. Marine traffic may transit safely outside of the safety zone in the majority of the Pickering Wharf Channel during the event. Given the limited time-frame of the enforcement period of the safety zone, the size of the channel and the size of the safety zone itself, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to and during the enforcement period via Local Notice to Mariners and marine information broadcasts.

Regulatory Evaluation

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

Although this rule will prevent traffic from transiting a portion of the Pickering Wharf Channel during this event, the effect of this rule will not be significant for several reasons: vessels will be excluded from the area of the safety zone for only one and one-half hours, although vessels will not be able to transit the channel in the vicinity of the safety zone, they will be able to operate in other areas of the channel during the enforcement period; and advance notification will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Pickering Wharf Channel from 8:45 p.m. until 10:15 p.m. on July 4, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons described under the Regulatory Evaluation section.

Assistance for Small Entities

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

Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T01–073 to read as follows:

§ 165.T01–073 Safety Zone: Salem Celebrates the 4th of July Fireworks—Salem, Massachusetts.

(a) *Location.* The following area is a safety zone: All navigable waters of the Pickering Wharf Channel within a four hundred (400) yard radius of the fireworks launch site located at approximate position 42°31.05′ N, 070°52.05′ W.

(b) *Enforcement Period.* This rule is effective from 8:45 p.m. until 10:15 p.m. on July 4, 2007.

(c) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard

coxswain, petty officer, or other officer operating a Coast Guard vessel authorized to act on behalf of the Captain of the Port, Boston (COTP), and a Federal, State, and local officer designated by or assisting the COTP.

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this safety zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated representative.

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

(4) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative on VHF Channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, vessel operators must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: June 12, 2007.

James L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. E7–12364 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–035]

RIN 1625–AA00

Safety Zone; Seneca River Days, Baldwinsville, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Seneca River, Baldwinsville, NY. This safety zone is intended to restrict vessels from a portion of the Seneca River during the Seneca River Days fireworks display on July 6, 2007. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9:30 p.m. to 10:30 p.m. on July 6, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD09–07–035 and are available for inspection or copying at U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Tracy Wirth, U.S. Coast Guard Sector Buffalo; (716) 843–9573.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective fewer than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Buffalo has determined fireworks launches proximate to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Seneca River Days fireworks display. The fireworks display will occur between 9:30 p.m. and 10:30 p.m. on July 6, 2007.

The safety zone for the fireworks will encompass all waters of the Seneca River, Baldwinsville, NY within a six hundred foot radius of position 43°09′25″ N, 076°20′20″ W. [DATUM: NAD 83].

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Buffalo or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port Buffalo or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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

This determination is based on the minimal time that vessels will be restricted from the safety zone and the safety zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the safety zone's activation.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of the Seneca River Baldwinsville, NY between 9:30 p.m. and 10:30 p.m. on July 6, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only one hour for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone. The Coast

Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about the rule or any policy of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that this safety zone and fishing rights protection need not be incompatible. We have also determined that this Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this Proposed Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

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

Technical Standards

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

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

Environment

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

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–035 is added as follows:

§ 165.T09–035 Safety zone; Seneca River Days, Baldwinsville, NY.

(a) *Location.* The following area is a temporary safety zone: All waters of the Seneca River, Baldwinsville, NY within a six hundred foot radius of position 43°09′25″ N, 076°20′20″ W. [DATUM: NAD 83].

(b) *Enforcement period.* This regulation will be enforced from 9:30 p.m. to 10:30 p.m. on July 6, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf. The on-scene representative of the Captain of the Port Buffalo will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 11, 2007.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E7–12360 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–037]

RIN 1625–AA00

Safety Zone: Independence Day Celebration Fireworks Display, Ipswich, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Trustees of Reservations July Fireworks on July 4, 2007. The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of Ipswich Bay during its closure period.

DATES: This rule is effective from 8:30 p.m. on July 4, 2007 until 10:30 p.m. on July 5, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01–07–037 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. As the fireworks display is scheduled to occur on July 4, 2007, any delay encountered in the regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of Ipswich Bay during the fireworks display thus ensuring that the maritime public is protected from any potential harm associated with such an event. Additionally, the zone should have negligible impact on vessel transits due to the fact that vessels will be limited from the area for only two hours and vessels can still transit in the majority of Ipswich Bay during the event. Accordingly, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM.

For the same reasons, the Coast Guard finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

This rule establishes a safety zone on the navigable waters of Ipswich Bay within a 500-yard radius of the fireworks display located at approximate position 42°960.63′ N, 070°77.59′ W. The safety zone is in effect from 8:30 p.m. until 10:30 p.m. on July 4, 2007. The rain date for the fireworks event is from 8:30 p.m. until 10:30 p.m. on July 5, 2007.

The safety zone temporarily restricts movement within this portion of Ipswich Bay and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the safety zone during the enforcement period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to the event. Public notification will be made prior to the enforcement period via marine information broadcasts and Local Notice to Mariners.

Regulatory Evaluation

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

Although this rule prevents vessel traffic from transiting a portion of Ipswich Bay during the enforcement period, the effects of this regulation will not be significant for several reasons: Vessels will be excluded from the proscribed area for only two hours, vessels will be able to operate in the majority of Ipswich Bay during the effective period, and advance notification will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Ipswich Bay from 8:30 p.m. until 10:30 p.m. on July 4, 2007. The rain date for the fireworks event is from 8:30 p.m. until 10:30 p.m. on July 5, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only two hours, vessel traffic can safely pass around the zone, and advance notification will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T01–037 to read as follows:

§ 165.T01–037 Safety Zone; Independence Day Celebration Fireworks Display, Ipswich, Massachusetts.

(a) *Location.* The following area is a safety zone: All navigable waters of Ipswich Bay within a 500-yard radius of the fireworks barge located at

approximate position 42°960.63′ N, 070°77.59′ W.

(b) *Enforcement Period.* This section will be enforced from 8:30 p.m. until 10:30 p.m. on July 4, 2007. The rain date for the fireworks event is from 8:30 p.m. until 10:30 p.m. on July 5, 2007.

(c) *Definitions.* (1) As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel authorized to act on behalf of the Captain of the Port, Boston (COTP), and a Federal, State, and local officer designated by or assisting the COTP.

(2) [Reserved]

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

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

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative on VHF Channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, vessel operators must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: May 25, 2007.

James L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. E7–12371 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Electronic Verification System (eVS) for Parcel Select Mailings

AGENCY: United States Postal Service.

ACTION: Final rule; suspension of effective date.

SUMMARY: This final rule delays the date set for the required use of electronic data and automated processes of the Electronic Verification System (eVS) for permit imprint Parcel Select® manifest mailings, which currently are paper-driven and rely on manual processes for handling verification and postage reconciliations. The delay in required use also extends to Standard Mail® machinable parcels and parcels from other Package Services subclasses (Bound Printed Matter, Library Mail, or Media Mail®) that are authorized to be commingled with permit imprint Parcel Select parcels. Parcel mailers and shippers may continue to use eVS as an option if they meet the required business standards and technical specifications in the Domestic Mail Manual.

DATES: The effective date for the final rule amending 39 CFR part 111 published in the **Federal Register** (71 FR 38966) on July 10, 2006, is delayed indefinitely. The Postal Service™ will publish a document in the **Federal Register** announcing the new effective date. The applicability date for the *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®) change set forth below is May 14, 2007.*

FOR FURTHER INFORMATION CONTACT: Neil Berger, Program Manager, Business Mailer Support, via e-mail at *neil.h.berger@usps.gov* or by telephone at (202) 268–7267.

SUPPLEMENTARY INFORMATION: On November 7, 2005, the Postal Service published a proposed rule in the **Federal Register** (70 FR 67399–67405), soliciting comments from mailers and parcel shippers on requiring the use of the Electronic Verification System (eVS) for all permit imprint Parcel Select mailings, including those containing authorized commingled Standard Mail machinable parcels and parcels from the other subclasses of Package Services (Bound Printed Matter, Media Mail, and Library Mail).

On July 10, 2006, the Postal Service published a final rule in the **Federal Register** (71 FR 38966–38978) responding to comments from the mailing industry and providing implementing language and mailing standards to take effect on August 1, 2007, that would require all permit imprint Parcel Select mail and all permit imprint mail authorized to be commingled with Parcel Select to be prepared using eVS.

The Postal Service is delaying the required use of eVS because of the large number of format and coding changes required by the R2006–1 omnibus rate case, implemented on May 14, 2007, and because of the addition of several new subclasses of mail that will become available under eVS after May 14, 2007.

As a result, the Postal Service is re-evaluating a suitable date for new mailer implementation of eVS. Once the Postal Service, working closely with the parcel shipping industry, determines an appropriate date, it will publish the new date in the **Federal Register** and the *Postal Bulletin.*

We adopt the following amendments to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®)* as provided below: *Mailing Standards of the United States Postal Service,* Domestic Mail Manual

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

2.9 Electronic Verification System (eVS)

* * * * *

[Revise the heading ''Optional and Required Use'' to read as follows:]

2.9.4 Use

[Revise 2.9.4 by removing the last sentence ''Effective August 1, 2007, mailers must use eVS for all permit imprint Parcel Select parcels and for permit imprint parcels authorized under 705.6.0 and 705.7.0 to be commingled with Parcel Select'' to read as follows:] Mailers depositing permit imprint parcels for those classes of mail and rate categories specified in 2.9.2 may document and pay postage using eVS. Mailers authorized to commingle Standard Mail parcels or Package Services presorted parcels under 705.6.0 and 705.7.0 also may use eVS to document and pay postage for all parcels in the mailing for those mail classes and subclasses available under 2.9.2.

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E7–10391 Filed 6–26–07; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0313; FRL–8134–5]

Tobacco Mild Green Mosaic Tobamovirus (TMGMV); Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the tobacco mild green mosaic tobamovirus (TMGMV) on grass and grass hay when applied/used as a bioherbicide against the weed tropical soda apple. Interregional Research Project Number 4 (IR4), on behalf of BioProdex, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of TMGMV. The temporary tolerance exemption expires on June 30, 2009.

DATES: This regulation is effective June 27, 2007. Objections and requests for hearings must be received on or before August 27, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0313. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Rebecca Edelstein, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0513; e-mail address: *edelstein.rebecca@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this ''**Federal Register**'' document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0313 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 27, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0313, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of July 7, 2006 (71 FR 38643) (FRL–8069–7), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6E7029) by BioProdex, Inc., Gainesville Technology Enterprise Center (GTEC), Box 5, Suite 205, 2153 SE Hawthorne

Road, Gainesville, FL 32641. The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of TMGMV. The docket for this action includes a summary of the petition prepared by the petitioner IR–4 on behalf of BioProdex, Inc. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the FFDCA defines ''safe '' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, section 408(b)(2)(D) of the FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

TMGMV is a tobamovirus, a type of plant virus, and tobamoviruses have no known toxicity or pathogenicity to any organisms other than plants. They are unable to infect animals because they lack cell surface binding site receptors common to animal viruses. Tobamoviruses enter plant cells only through open wounds (e.g., those produced by feeding insects or by mechanical methods) or by cell-to-cell transfer (Fraenkel-Conrat, *et. al.*, 1988). Almost all living things are routinely exposed to plant viruses, including tobamoviruses, through plants and plant products (e.g., foods). TMGMV is known to infect about 20 plants, including peppers (Plant Viruses Online, 2005; Wetter, C., 2005); therefore, humans are likely already exposed to TMGMV through food. Throughout the available literature, there are no reports of adverse effects in animals resulting from ingestion or exposure to TMGMV. TMGMV has not been reported to multiply in insects nor in any other known animal. One reference provided by the registrant may show replication of TMV (another tobamovirus) in cultured, immune-suppressed, monkey kidney cell lines (Atherton, J.G., 1968). However, this was an artificial system and does not indicate that plant viruses can normally replicate in animal cells. The specific mode of action of TMGMV is such that only some species within the plant family *Solanaceae* are susceptible to this virus. Laboratory animals such as rabbits, mice, chickens, and guinea pigs are routinely used for producing antibodies against tobamoviruses without causing adverse effects to the animals. In addition, there are no reports of humans that handle and administer the viruses or of these laboratory animals developing any nasal, eye, skin, or pulmonary allergies, or any other adverse reactions to the viruses.

In support of this tolerance exemption, mammalian toxicology requirements were satisfied by publicly available information submitted by BioProdex, summarized in the paragraph above. Specifically, the information provided supports the lack of toxicity to mammals and humans of tobamoviruses, the fact that only certain plants (and no animals) are susceptible to TMGMV, and that TMGMV poses little to no risk to humans.

1. *Acute oral toxicity/pathogenicity (OPPTS 885.3050).* To satisfy this requirement, the registrant submitted supporting public literature rather than a study, which shows that plant viruses, including TMGMV, are found in food ingested daily by humans and animals, and according to the published literature, no known adverse effects or deaths have occurred in any species as a result of such dietary exposures.

2. *Acute dermal toxicity/pathology (OPPTS 885.3100).* The registrant submitted supporting public literature rather than a study to fulfill this requirement, showing that plant viruses, including TMGMV, are ubiquitous in plants, and they are not known to cause acute dermal toxicity or pathogenicity to mammals.

3. *Acute eye irritation (OPPTS 870.2400).* The registrant submitted supporting public literature rather than a study to fulfill this requirement, showing that plant viruses, including TMGMV, are ubiquitous in plants, and they are not known to cause acute eye irritation or pathogenicity to mammals.

4. *Acute pulmonary toxicity/pathogenicity (OPPTS 885.3150).* To fulfill this requirement, the registrant submitted supporting public literature rather than a study, which shows that plant viruses, including TMGMV, are ubiquitous in plants, and they are not known to cause acute pulmonary toxicity or pathogenicity to mammals.

5. *Acute injection toxicity/pathogenicity (OPPTS 885.3200).* To fulfill this requirement, the registrant submitted supporting public literature rather than a study, showing the following:

i. TMGMV, like all tobamoviruses, can evoke immune responses and produce antibodies if properly injected into laboratory animals such as rabbits, mice, chickens, and guinea pigs without causing adverse effects to the animals; and

ii. There are no reports of humans that handle and administer tobamoviruses or laboratory animals developing adverse reactions to the virus.

6. *Hypersensitivity incidents (OPPTS 885.3400).* Workers handling TMGMV on a daily basis since 1999 have not had a single incidence of hypersensitivity. In addition, some workers have been handling tobamoviruses for nearly 40 years without encountering hypersensitivity to any of these viruses. There are no reports of hypersensitivity in humans or other animals to tobamoviruses in the literature.

7. *Cell culture (OPPTS 885.3500).* To satisfy this requirement, the registrant submitted the following information, supported by public literature. Tobamoviruses are unable to infect animal cells since the cell surface plays an important role in infection of animal cells; during infection, animal viruses interact specifically with receptors on the animal cell surface. Tobamoviruses,

on the other hand, lack recognition for these receptors and only enter plant cells through open wounds or via cell-to-cell transfer through intercellular connections (Fraenkel-Conrat, *et. al.*, 1988). There is one report in the literature of growing *Tobacco mosaic tobamovirus* (TMV; a different tobamovirus from the one that is the subject of this tolerance exemption) in cultured, immune-suppressed, monkey kidney cell lines (Atherton, J.G., 1968). However, this was an artificial system and does not indicate that tobamoviruses can normally replicate in or infect animal cells.

Based on the published literature, in accordance with Tier I toxicology data requirements set forth in 40 CFR 158.740(c), the Tier II and Tier III toxicology data requirements were not triggered in connection with this action.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food*. Virus-infected food plants have always been a part of the human and domestic animal food supply (Dewan and Pearson, 1995; McKinney, 1929; Provvidenti and Gonsalves, 1984; Palukaitis, 1991; Jones et al., 1934; Beemster and de Bokx, 1987). Most plants may be infected by at least one virus, and components of plant viruses are often found in the produce of crop plants. Even plants that show no disease symptoms are often found to be infected with viruses (Jones *et al.*, 1934; Fulton, 1986). In addition, a common agricultural practice used since the 1920s for protection against viral disease involves intentionally inoculating healthy plants with a mild form of a virus in order to prevent infection by a more virulent form (Fulton, 1986). A great deal of information supports the ubiquitous appearance of plant viruses in foods, and to date there have been no reports of adverse human or animal health effects associated with consumption of plant viruses in food. Furthermore, the proposed experimental use permit (EUP) is not expected to result in increased exposures of TMGMV to the general population: The intended use of TMGMV is in rangelands, grass pastures, sod-production fields, Conservation Reserve areas, and other natural areas in Florida, and the only residues anticipated on food with this EUP are on grass and grass hay. In addition, these residues on grass or grass hay would only be incidental to application to the target organism since grass is not a host for TMGMV; therefore, TMGMV cannot infect grass or replicate in grass. Accordingly, the Agency concludes that when TMGMV is used as intended, there is reasonable certainty that no harm will result to humans from all anticipated exposures through food to any residues resulting from such use.

2. *Drinking water exposure*. TMGMV is not intended for use in drinking water. However, in the event that TMGMV would reach water consumed by humans, for the reasons enumerated above, the Agency concludes that when TMGMV is used as intended, there is reasonable certainty that no harm will result to humans from all anticipated exposures through water to any residues resulting from such use.

B. Other Non-Occupational Exposure

EPA concludes that dermal or inhalation exposure to the general population as a result of this EUP is not likely to occur, based on the proposed uses and limited acreage. Moreover, the general population, including infants and children, are exposed to plant viruses daily in food with no known adverse effects ever being reported. Therefore, the Agency concludes that in the unlikely event that there is non-occupational, non-dietary exposure to TMGMV, such exposure would pose no risks to the general population, including infants and children.

V. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires that EPA consider available information on the cumulative effects of a particular pesticide's residues and other substances that have a common mechanism of toxicity when establishing, modifying, or revoking a tolerance. These considerations include the possible cumulative effects on infants and children of such residues and other substances with a common mode of toxicity. Because there is no indication of mammalian toxicity or pathogenicity from TMGMV, we conclude that there are no cumulative effects for this virus and any other substance.

VI. Determination of Safety for U.S. Population, Infants and Children

1. *U.S. population*. For all of the reasons discussed above, there is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of TMGMV. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

2. *Infants and children*. Section 408(b)(2)(C) of the FFDCA provides that EPA shall apply an additional tenfold margin of exposure (MOE) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure, unless EPA determines that a different MOE will be safe for infants and children. MOEs, which are often referred to as uncertainty (safety) factors, are incorporated into EPA risk assessments either directly, or through the use of a MOE analysis or by using uncertainty factors in calculating a dose level that poses no appreciable risk. As previously mentioned in the toxicological profile, humans, including infants and children, have been exposed to plant viruses through food, where they are commonly found, with no known or reported adverse effects. As discussed above, the Agency has concluded that TMGMV is non-toxic to mammals, including infants and children. Because there are no threshold levels of concern to infants, children, and adults when TMGMV is used as labeled, the Agency concludes that the additional MOE is not necessary to protect infants and children.

VII. Other Considerations

A. Endocrine Disruptors

At this time, the Agency is not requiring information on the endocrine effects of this active ingredient, TMGMV. The Agency has considered, among other relevant factors, available information concerning whether the virus may have an effect in humans similar to an effect produced by a naturally occurring estrogen or other endocrine effects. Plant viruses cannot infect mammals, and there is no known metabolite that acts as an ''endocrine disruptor'' produced by this virus. Therefore, there is no impact via endocrine-related effects on the Agency's safety findings in this final rule.

B. Analytical Method

Through this action, the Agency is proposing to establish a temporary exemption from the requirement of a tolerance for residues of TMGMV on grass and grass hay for the purposes of an EUP. The Agency reached this decision based on the reasons discussed

above, including lack of toxicity to mammals, and therefore concludes that an analytical method for detecting TMGMV is not required for enforcement purposes.

C. Codex Maximum Residue Level

No Codex maximum residue levels exist for the virus TMGMV.

D. References

1. Atherton, J.G. 1968. Formation of tobacco mosaic virus in an animal cell culture. Archiv fur die gesamte Virusforschung 24:406–418.

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3. Dewan C, Pearson MN. Natural field infection of garlic by garlic yellow streak virus in the Pukekohe area of New Zealand and associated problems with the introduction of new garlic cultivars. *New Zealand Journal of Crop and Horticultural Science* 1995; 23:97–102.

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VIII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 15, 2007.

Debra Edwards,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1276 is added to subpart D to read as follows:

§ 180.1276 Tobacco mild green mosaic tobamovirus (TMGMV); temporary exemption from the requirement of a tolerance.

A temporary exemption from the requirement of a tolerance is established for residues of tobacco mild green mosaic tobamovirus in or on all grass and grass hay.

[FR Doc. E7–12338 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0821; FRL–8133–1]

Buprofezin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of buprofezin in or on fruit, stone, group 12, except apricot and peach; and apricot. EPA is also revising existing tolerances for residues of buprofezin in or on canistel; grape; mango; papaya; sapodilla; sapote, black; sapote, mamey; and star apple; and deleting the existing tolerance for ''grape, raisin'' that is no longer needed as a result of this action. Interregional Research Project No. 4 requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective June 27, 2007. Objections and requests for hearings must be received on or before August 27, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0821. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*,or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6463; e-mail address: *madden.barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0821 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before August 27, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2006–0821, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of October 11, 2006 (71 FR 59781) (FRL–8098–1), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 5E6979, 5E6980 and 5E6981) by Interregional Research Project Number 4 (IR-4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. The petitions requested that 40 CFR 180.511 be amended by establishing a tolerance for residues of the insecticide buprofezin, 2-[(1,1-dimethylethyl)imino]tetrahydro-3(1-

methylethyl)-5-phenyl-4H-1,3,5-thiadiazin-4-one, in or on fruit, stone, group 12 (except peaches and nectarines) at 2 parts per million (ppm) (5E6979); black sapote, canistel, mamey sapote, mango, papaya, sapadilla and star apple at 0.8 ppm (5E6980); and amending the tolerances in or on grape at 0.8 ppm and grape, raisin at 1.2 ppm (5E6981). That notice referenced a summary of the petition prepared by Ninchino America, Inc., the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the residue field trial data supporting the petitions, EPA has modified the proposed tolerances as follows: Fruit, stone, group 12, except apricot and peach at 1.9 ppm; apricot at 9.0 ppm (PP5E6979); black sapote, canistel, mamey sapote, mango, papaya, sapadilla and star apple at 0.90 ppm (PP5E6980); and grape at 2.5 ppm with deletion of the existing tolerance on grape, raisin, since a separate raisin tolerance is no longer needed (PP5E6981). The reason for these changes is explained in Unit V.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with section 408(b)(2)(D) of the FFDCA, and the factors specified in section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of buprofezin on fruit, stone, group 12, except apricot and peach at 1.9 ppm; apricot at 9.0 ppm; black sapote, canistel, mamey sapote, mango, papaya, sapodilla and star apple at 0.90 ppm; and grape at 2.5 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by buprofezin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of September 5, 2001 (66 FR 46381), (FRL–6796–6).

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (''aPAD'') and chronic population adjusted dose (''cPAD''). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (''MOE'') called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for buprofezin used for human risk assessment can be found at *www.regulations.gov* in document ''Buprofezin - Human-Health Risk Assessment for the Requested Stone Fruit Registration and the Proposed Amendment for the Grape and Papaya and Related Tropical Fruit Registrations'' at pages 9–10 in Docket ID EPA–HQ–OPP–2006–0821.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to buprofezin, EPA considered exposure under the petitioned-for tolerances as well as all existing buprofezin tolerances in 40 CFR 180.511. EPA assessed dietary exposures from buprofezin in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. Such effects were identified in the toxicological studies for buprofezin for the population subgroup, females 13–50 years old; no such effects were identified for the general population or other population subgroups. In estimating acute dietary exposure of females 13–50 years old, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed that residues are present at tolerance levels for all commodities except meat and milk. Anticipated residues were calculated for meat and milk commodities as follows: Tolerances for meat and milk are established at the analytical method limit of quantitation (LOQ). Since residues were only detected in the livestock feeding study when feed contained 6.8–9.3x the maximum theoretical dietary burden (MTDB), residues in these commodities were normalized to 1x the MTDB in the acute dietary exposure assessment. For fruits and crops with an extended interval

from initial application to harvest (>50 day), additional metabolites of toxicological concern (BF4 and its conjugates, and BF12) that are not included in the tolerance expression were included in the dietary exposure assessment, as appropriate, based on the ratio of metabolite to parent found in plant metabolism studies. No adjustment was made to account for the percent of crops treated with buprofezin in the acute dietary exposure assessment. One hundred (100) percent crop treated (PCT) was assumed for all commodities.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA relied upon anticipated residues and percent crop treated information for some commodities. The chronic analysis employed the same anticipated residue estimates for meat and milk as those employed for the acute analysis. For apple, orange, and orange juice, average residues from the 2004 and/or 2005 USDA Pesticide Data Program (PDP) monitoring data were used for estimation of total buprofezin and metabolite residues. For all other plant commodities, tolerance-level or average field trial residues were used. For fruits and crops with an extended interval from initial application to harvest (>50 day), additional metabolites of toxicological concern (BF4 and its conjugates, and BF12) that are not included in the tolerance expression were included in the dietary exposure assessment, as appropriate, based on the ratio of metabolite to parent found in plant metabolism studies. The chronic analysis incorporated screening-level percent crop treated estimates for several registered crops and projected percent crop treated estimates for peach, grape, apricot, nectarine, cherry, and plum. 100 PCT was assumed for commodities for which PDP monitoring data were used to estimate exposures (apple, orange, and orange juice).

iii. *Cancer*. Taking into account its Guidelines for Carcinogen Risk Assessment, EPA classified buprofezin as having suggestive evidence of carcinogenicity, based on the occurrence of liver tumors in female mice only. EPA determined, however, that no quantification of cancer risk was appropriate, because the evidence was limited to one sex of one species. Therefore, a quantitative cancer exposure and risk assessment was not conducted.

iv. *Anticipated residue and PCT information*. Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must pursuant to section 408(f)(1) require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by section 408(b)(2)(E) of the FFDCA and authorized under section 408(f)(1) of the FFDCA. Data will be required to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

a. The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue;

b. The exposure estimate does not underestimate exposure for any significant subpopulation group; and

c. Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of the FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

PCT for existing uses: Almond 1%; cantaloupe 5%; citrus (citron, hybrids and oil) 1%; cottonseed 1%; grapefruit 1%; honeydew 1%; lemon 1%; lime 1%; orange peel 1%; pear 1%; pumpkin 1%; tomato 1%; and watermelon 1%. Projected PCT for New Uses: Apricot 40%; cherry 76%; grape 21%; nectarine 60%; peach 13%; and plum 35%.

EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available federal, state, and private market survey data for that use, averaging by year, averaging across all years, and rounding up to the nearest multiple of five percent except for those situations in which the average PCT is less than one. In those cases <1% is used as the average and <2.5% is used as the maximum. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the single maximum value reported overall from available federal, state, and private market survey data on the existing use, across all years, and rounded up to the nearest multiple of five percent. In most cases, EPA uses available data from USDA/National Agricultural Statistics Service (USDA/NASS), Proprietary Market Surveys, and the National Center for Food and Agriculture Policy (NCFAP) for the most recent six years.

EPA estimates projected percent crop treated (PPCT) for a new pesticide use by assuming that the PCT during the pesticide's initial five years of use on a specific use site will not exceed the average PCT of the market leader (i.e., the one pesticide with the greatest PCT) on that site.

Typically, EPA uses USDA/NASS as the primary source for PCT data. When a specific use site is not surveyed by USDA/NASS, EPA uses other sources including proprietary data and calculates the PCT. Comparisons are only made among pesticides of the same pesticide types (i.e., the leading insecticide on the use site is selected for comparison with the new insecticide). The chronic PPCT values for buprofezin are averages derived from the most recent NASS surveys, either for the same pesticide, or for different pesticides, since the same, or different, pesticides may dominate for each year selected. This PPCT, based on the average PCT of the market leader, is appropriate for use in chronic dietary risk assessment. The method of estimating a PPCT for a new use of a registered pesticide or a new pesticide produces a high-end estimate that is unlikely, in most cases, to be exceeded during the initial five years of actual use.

The predominant factors that bear on whether the estimated PPCT could be exceeded are whether a new pesticide use or new pesticide is more efficacious or controls a broader spectrum of pests than the dominant pesticide; and/or whether increasing pest pressure may intensify the use of pesticides as indicated in emergency exemption requests or other readily available information.

All information currently available for the predominant factors mentioned above or relevant to the case in question have been considered for this chemical, and it is the opinion of EPA that it is unlikely that actual PCT for buprofezin will exceed the PCT projections during the next five years. A discussion of the factors considered in making this determination can be found at *www.regulations.gov* in the document ''Projected Percent Crop Treated for the Insecticide Buprofezin on Six Crops:

Grapes, Apricots, Nectarines, Sweet Cherries, Tart Cherries, and Plums'', which is attached to the document ''Buprofezin - Acute and Chronic Dietary Exposure and Risk Assessments'' at pages 13–17 in Docket ID EPA–HQ–OPP–2006–0821.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which buprofezin may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for buprofezin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of buprofezin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the EPA's Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated environmental concentrations (EECs) of buprofezin for acute exposures are estimated to be 23.2 parts per billion (ppb) for surface water and 0.1 ppb for ground water. The EECs for chronic exposures are estimated to be 7.8 ppb for surface water and 0.1 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 23.2 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 7.8 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Buprofezin is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to buprofezin and any other substances and buprofezin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that buprofezin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional (''10X'') tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There is no quantitative or qualitative evidence of increased susceptibility of rat or rabbit fetuses to in utero exposure to buprofezin in developmental studies. There is no quantitative or qualitative evidence of increased susceptibility of rat offspring in the 2–generation reproduction study. There is evidence of thyroid toxicity following subchronic and chronic exposures of rats and dogs to buprofezin; however, data to determine whether young animals are more susceptible to these effects are not available.

3. *Conclusion*. EPA has determined that, due to uncertainties in the toxicity database for buprofezin, the FQPA safety factor of 10X must be retained and applied to all subchronic and chronic exposures whose endpoint is based on thyroid effects. EPA has also determined that the traditional 10X uncertainty factor to account for interspecies variation may be reduced to 3X for these exposures. For acute exposures, EPA has determined that the FQPA safety factor may be reduced to 1X and that the tradiditonal 10X safety factor to account for interspecies variation must be retained. These decisions are based on the following findings:

i. The toxicity database for buprofezin is not complete as to chronic risk. Based on the evidence of thyroid toxicity following subchronic and chronic exposures of rats (histopathological lesions) and dogs (decreases in serum thyroxine levels and increased thyroid weights), EPA requested a buprofezin comparative thyroid assay study in rats (28–day; young versus adults) to determine if the thyroid effects occur at a lower dose in young versus adult animals. Since this study has not been submitted, EPA concludes that the 10X FQPA safety factor to account for database uncertainty should be retained and applied to all subchronic and chronic exposures whose endpoint is based on thyroid effects. EPA has also determined that the traditional 10X uncertainty factor to account for interspecies variation may be reduced to 3X for these exposures, since it has been established that rats are more susceptible to thyroid effects than humans. The FQPA safety factor of 10X is not applicable to the acute endpoint, since a single dose of buprofezin would not be expected to perturb thyroid homeostasis in the adult or the young

due to the buffering of thyroid hormone concentrations by homeostatic mechanisms for compounds with short half lives, like buprofezin.

ii. There is no indication that buprofezin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that buprofezin results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

iv. There are no residual uncertainties in the exposure databases. The dietary food exposure assessments were refined for some commodities using reliable PCT/PPCT information and anticipated residue values calculated from the available monitoring data and field trial results. Dietary drinking water exposure is based on conservative modeling estimates. These assessments will not underestimate the exposure and risks posed by buprofezin.

Therefore, the total uncertainty factor for chronic dietary assessments is 300X (10X FQPA safety factor, 3X uncertainty factor for interspecies variation, and 10X uncertainty factor for intraspecies variation); and the total uncertainty factor for acute dietary assessments is 100X (10X uncertainty factor for interspecies variation and 10X uncertainty factor for intraspecies variation).

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (''aPAD'') and chronic population adjusted dose (''cPAD''). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to buprofezin will occupy 6% of the aPAD for the population group females 13–49 years old. No acute endpoint of concern was identified for the remaining population groups.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to buprofezin from food and water will utilize 92% of the cPAD for the population group (children 1 to 2 years old) with the greatest exposure. There are no residential uses for buprofezin that result in chronic residential exposure to buprofezin.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Buprofezin is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Buprofezin is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's LOC.

5. *Aggregate cancer risk for U.S. population*. Buprofezin is classified as having suggestive evidence of carcinogenicity; however, EPA determined it poses a negligible cancer risk to humans because the evidence of carcinogenicity was limited to one sex of one animal test species only.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to buprofezin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The gas chromatography/nitrogen phosphorus detector methods used in the field trial studies were adequately validated and similar to the method validated by EPA's Analytical Chemistry Branch (ACB) and forwarded to the Food and Drug Administration for publication in the Pesticide Analytical Manual I. Since adequate method validation and concurrent recoveries were attained in the field trial studies, EPA concludes that the method validated by ACB is appropriate for enforcement of the tolerances associated with these petitions. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no Canadian, Mexican, or Codex maximum residue limits (MRLs) established for buprofezin in/on any of the commodities associated with the current petitions.

V. Conclusion

Based upon review of the data supporting the petitions, EPA has modified the proposed tolerances as follows: Fruit, stone, group 12, except apricot and peach at 1.9 ppm; apricot at 9.0 ppm (PP5E6979); black sapote, canistel, mamey sapote, mango, papaya, sapadilla and star apple at 0.90 ppm (PP5E6980); and grape at 2.5 ppm with deletion of the existing tolerance on grape, raisin (PP5E6981). EPA determined that the proposed tolerances for these commodities were inappropriate and should be revised based on analyses of the residue field trial data using the Agency's Tolerance Spreadsheet in accordance with the Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data Standard Operating Procedure (SOP). Tolerances currently exist for residues of buprofezin in or on grape at 0.4 ppm and grape, raisin at 0.6 ppm. Based upon review of field trial data supporting the current petition and previously submitted processing data for buprofezin on grapes, EPA has determined that residues in raisins will not exceed the tolerance being established for residues of buprofezin in or on grape at 2.5 ppm. Since a separate tolerance for raisins is not needed and the existing raisin tolerance is too low to cover residues of buprofezin from the new use on grapes, EPA is deleting the existing tolerance for grape, raisin. Residues in or on raisins will be covered by the tolerance of 2.5 ppm for grape.

Therefore, tolerances are established for residues of buprofezin, 2-[(1,1-dimethylethyl)imino] tetrahydro-3(1-methylethyl)-5-phenyl-4H-1,3,5-thiadiazin-4-one, in or on fruit, stone, group 12, except apricot and peach at 1.9 ppm; apricot at 9.0 ppm; black sapote, canistel, mamey sapote, mango, papaya, sapadilla and star apple at 0.90 ppm; and grape at 2.5 ppm. The existing tolerance for residues of buprofezin in or on grape, raisin is deleted.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and

Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 7, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.511 is amended in paragraph (a) in the table as follows:

■ i. By removing the entry for ''Grape, raisin'';

■ ii. By alphabetically adding ''Apricot'' and ''Fruit, stone, group 12, except apricot and peach''; and

■ iii. By revising the entries for ''Canistel,'' ''Grape,'' ''Mango,'' ''Papaya,'' ''Sapodilla,'' ''Sapote, black,'' ''Sapote, mamey,'' and ''Star apple.''

The amendments read as follows:

§ 180.511 Buprofezin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* *
Apricot	9.0
* * *	* *
Canistel	0.90
* * *	* *
Fruit, stone, group 12, except apricot and peach	1.9
* * *	* *
Grape	2.5
* * *	* *
Mango	0.90
* * *	* *
Papaya	0.90
* * *	* *
Sapodilla	0.90
Sapote, black	0.90
Sapote, mamey	0.90
* * *	* *
Star apple	0.90
* * *	* *

* * * * *

[FR Doc. E7–12161 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–S

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–4

[FTR Amendment 2007–03; FTR Case 2007–301; Docket 2007–0002, Sequence 3]

RIN 3090–AI34

Federal Travel Regulation; Relocation Allowances—Standard Mileage Rate for Moving Purposes

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA), Office of Governmentwide Policy (OGP), plans to establish the Internal Revenue Service (IRS) Standard Mileage Rate for moving purposes as the rate at which agencies will reimburse an employee for using a privately owned vehicle (POV) for relocation. The FTR and any corresponding documents may be accessed at GSA's website at *http://www.gsa.gov/ftr*.

DATES: *Effective Date*: September 25, 2007.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat (VIR), Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ed Davis, Office of Governmentwide Policy (M), Office of Travel, Transportation and Asset Management (MT), General Services Administration at (202) 208–7638 or e-mail at *ed.davis@gsa.gov*. Please cite FTR Amendment 2007–03; FTR case 2007–301.

SUPPLEMENTARY INFORMATION:

A. Background

Relocation is an area that continuously evolves because of changes in the housing market,

transportation industry, technology, etc. The General Services Administration (GSA), Office of Governmentwide Policy (OGP), routinely reviews the relocation regulations to address current Government relocation needs, to incorporate appropriate private industry policies, and to implement any best practices that fit well into the Federal setting.

To help accomplish these goals, GSA created the Relocation Best Practices Committee (RBPC) in 2002. Many of this Committee's recommendations were reflected in a proposed rule published in the **Federal Register** at 69 FR 68111, November 23, 2004.

The proposed rule included 30 changes; however, this final rule focuses on only one of those proposed changes, namely adopting the mileage rate established by the IRS for computing relocation, or moving, costs for income tax purposes for reimbursing Federal employees for using their POVs for relocation travel to a new duty station for PCS. GSA will address the remaining Federal Travel Regulation (FTR) changes from the proposed rule in one or more future final rule(s).

Section 302–4.300 of the FTR (41 CFR 302–4.300) currently provides tiered reimbursements for POV use in en route travel to the new duty station based on the number of occupants. This final rule will eliminate the tiered rates. Instead, the agency will reimburse the employee who relocates by POV at the established IRS rate for use of a car for moving purposes. GSA will publish this rate in an FTR Bulletin to coincide with updates issued by the IRS. The IRS generally issues such updates annually, but for special cases, such as Hurricane Katrina, the IRS may issue updates during the year and GSA will follow suit.

The IRS allows two methods for computing the standard mileage rates for use of a car in moving: a single mileage rate or actual expense. GSA has decided to allow only reimbursement at the single mileage rate, since this approach is easier to administer and does not involve collecting and auditing small value receipts.

Many transferees compare the reimbursement rate for using a POV for temporary duty travel (TDY) to the rate for using a POV for relocation travel and do not understand why those rates differ. The more generous rate for using a POV for TDY travel is intended to cover the fixed costs of operating an automobile, such as depreciation (or lease payments), insurance, and license and registration fees, as well as the operating cost. None of these fixed costs are tax deductible as a moving expense, so none of these fixed costs are included in the moving rate mileage calculation. The IRS intends the rate for using a POV in moving to cover only actual operating expenses (*e.g.*, fuel, oil, tolls, etc.). The IRS then uses the operating costs for a combination of standard vehicles to calculate the moving rate.

GSA consulted the members of the Executive Relocation Steering Committee about this change. All members agreed that this adoption of the single IRS rate is appropriate.

B. Summary of Comments Received and the Issues Involved

GSA received comments from 12 entities on the proposed mileage rate change that was included in the proposed rule published in the **Federal Register** at 69 FR 68111, November 23, 2004. The main thrust of the comments was that payments to employees driving their automobiles should not be lowered. This argument was valid in 2004, at the time the proposed rule was issued. The IRS rate for using an automobile for relocation at that time was 14 cents per mile, which was lower than any rate on the FTR chart. The IRS rate for 2007 will be 20 cents per mile, which means that all drivers regardless of the number of passengers, will be receiving the equivalent of the highest possible rate in the current regulation.

Another objection to the proposed rule was that small agencies or isolated posts might not receive the GSA updates on the mileage rate. This has not been the case for the TDY mileage rate. Agencies adopt the TDY mileage rate quickly and accurately when it changes. GSA expects this to be the same for the relocation mileage rate.

C. Changes to Current FTR

This final rule:

- Revises section 302–4.300 to reflect the Internal Revenue Service single mileage rate for relocation by POV.
- Adds section 302–4.303 to disallow the use of the IRS actual expense rate for relocation in CONUS.

D. Executive Order 12866

This regulation is excepted from the definition of ''regulation'' or ''rule'' under Section 3(d)(3) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and, therefore, was not subject to review under Section 6(b) of that executive order.

E. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

F. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 302–4

Government employees, Relocation, Travel and transportation Expenses.

Dated: March 19, 2007.

Lurita Doan,

Administrator of General Services.

■ For the reasons set out in this preamble, 41 CFR part 302–4 is amended as set forth below:

PART 302–4—ALLOWANCES FOR SUBSISTENCE AND TRANSPORTATION

■ 1. The authority citation for 41 CFR part 302–4 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1973 Comp., p. 586.

■ 2. Revise § 302–4.300 to read as follows:

§ 302–4.300 What is the POV mileage rate for PCS travel within the continental United States (CONUS)?

For approved/authorized PCS travel by POV in CONUS, the mileage reimbursement rate is the same as the moving expense standard mileage rate established by the Internal Revenue Service (IRS) for moving expense deductions. See IRS guidance available on the Internet at *www.irs.gov*. GSA will publish the rate for mileage reimbursement in an FTR Bulletin on an intermittent basis to coincide with the rate changes published by the IRS. You may find the FTR Bulletins at *www.gsa.gov/relo*.

■ 3. Add § 302–4.303 to read as follows:

§ 302–4.303 For relocation within the continental United States (CONUS), may I use the actual expense method of reimbursement instead of the POV mileage rate specified in § 302–4.300?

No, for a PCS relocation within CONUS involving POV usage, your

agency will reimburse you at the standard mileage rate specified in § 302–4.300.

[FR Doc. E7–12433 Filed 6–26–07; 8:45 am]

BILLING CODE 6820–14–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 76

[FCC 07–115]

Interim Electronic Filing Procedures for Certain Commission Filings

AGENCY: Federal Communications Commission.

ACTION: Temporary rule; rescission.

SUMMARY: In this document, the Commission rescinds the procedures it adopted in 2001 on an emergency, interim basis to require the filing or re-filing of certain documents electronically (*i.e.*, by facsimile or e-mail), by overnight delivery, or by hand delivery to the Commission's Capitol Heights, Maryland location. Filings will no longer be accepted by e-mail or facsimile, unless specifically authorized by the Commission's rules.

DATES: Effective September 25, 2007.

ADDRESSES: Federal Communications Commission, 445 12th St., SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Denise D. Walter, Mobility Division, Wireless Telecommunications Bureau at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*; FCC 07–115, adopted June 18, 2007, and released June 20, 2007. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis of the Order

By an *Order* published at 66 FR 62991, December 4, 2001, the Commission amended its procedural rules ''on an emergency, interim basis'' to permit certain pleadings (specifically, (i) Petitions to deny filed pursuant to section 309 of the Communications Act of 1934, as amended (Act), 47 U.S.C. 309; (ii) petitions for reconsideration filed pursuant to section 405 of the Act, 47 U.S.C. 405; (iii) applications for review filed pursuant to section 5(c)(4) of the Act, 47 U.S.C. 155(c)(4); (iv) informal requests for Commission action involving pending applications filed pursuant to § 1.41 of the Commission's rules, 47 CFR 1.41; (v) petitions to amend the TV and FM Broadcast Table of Allotments and responsive pleadings; and (vi) comments or oppositions to open video system certification made pursuant to § 76.1502(e)(1) of the Commission's rules, 47 CFR 76.1502(e)(1)) to be filed electronically (*i.e.*, by facsimile or e-mail) ''[u]ntil further notice.'' It adopted these procedures in response to ''recent emergency events in Washington, DC, resulting in the unforeseeable and understandable disruption of regular mail delivery and of the processing of other deliveries due to the threat of contamination,'' *i.e.*, the discovery of anthrax contamination on Capitol Hill and at certain U.S. Postal Service mail processing facilities, and the consequent delay in mail processing due to quarantine and cleansing procedures associated with the anthrax contamination. The Commission stated, ''[T]hese emergency procedures are adopted on a temporary basis only, and will be discontinued when normal U.S. Mail delivery resumes.''

We note that mail delivery in the Washington, DC area has improved, and that the United States Postal Service has greatly reduced the delay in processing mail. We also note that the Commission has expanded it electronic filing capabilities, and implemented its own processes to combat the threat of contamination of incoming mail. Given these circumstances, we conclude that the interim electronic filing procedures adopted by the Commission in 2001 are no longer necessary. Accordingly, we rescind those procedures, effective ninety days after publication of this *Order* in the **Federal Register**. (This includes elimination of interim facsimile number 202–418–0187 and the following Office of the Secretary Bureau and Office e-mail addresses: *MMBSecretary@fcc.gov; WTBSecretary@fcc.gov; CCBSecretary@fcc.gov; CSBSecretary@fcc.gov; IBSecretary@fcc.gov; EBSecretary@fcc.gov; OtherSecretary@fcc.gov.*) Thereafter, filings will no longer be accepted by facsimile or e-mail, unless specifically authorized by the Commission's rules.

Pursuant to the authority of section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), the interim electronic filing procedures adopted in *Order* FCC 01–345, at 66 FR 62991, December 4, 2001, *are rescinded.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–12539 Filed 6–26–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–2390]

Radio Broadcasting Services; Hemet, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule; grant of petition for reconsideration.

SUMMARY: This document grants a Petition for Reconsideration filed by Southern California Public Radio in response to the staff letter dated March 18, 2004, returning its Petition for Rule Making, which requested the reservation of FM Channel 273A at Hemet, California for noncommercial educational use. This document also denies a Petition for Reconsideration filed by Maranatha Ministries of Hemet directed to the staff letter dated March 18, 2004, returning its Petition for Rule Making, requesting the reservation of vacant FM Channel 273A at Hemet, California for noncommercial educational use.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* adopted June 6, 2007, and released June 8, 2007. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document is not subject to the Congressional Review Act. (The Commission will not send a

copy of this *Memorandum Opinion and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because there were no rule changes made herein.)

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 07–3167 Filed 6–26–07; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WP Docket No. 07–100; FCC 07–85]

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) makes certain minor editorial amendments to its rules to correct errors or omissions of publication, eliminate duplicative language, or conform the rules with other rule sections in effort to provide clear and concise rules that are easy for the public to understand.

DATES: Effective July 27, 2007.

FOR FURTHER INFORMATION CONTACT: Rodney P. Conway, at *Rodney.Conway@FCC.gov*, Wireless Telecommunications Bureau, (202) 418–2904, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in WP Docket No. 07–100, FCC 07–85, adopted on May 9, 2007, and released May 14, 2007. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. Part 90 contains the rules for both the Private Land Mobile Radio (PLMR) Services and certain Commercial Mobile Radio Services (CMRS). PLMR licensees generally do not provide for-profit communications services. Some examples of PLMR licensees are public safety agencies, businesses that use radio only for their internal operations, utilities, transportation entities, and medical service providers. CMRS licensees, by comparison, do provide for-profit communications services, such as paging and Specialized Mobile Radio services that offer customers communications that are interconnected to the public switched network.

2. We take this opportunity to make certain minor editorial amendments to part 90 to correct errors or omissions of publication, eliminate duplicative language, and conform language among rule sections.

I. Procedural Matters

A. Paperwork Reduction Act

3. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons disussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 to read as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

■ 2. Amend § 90.5 by revising paragraphs (b), (h), and the introductory text in paragraph (i) to read as follows:

§ 90.5 Other applicable rule parts.

* * * * *

(b) Part 1 includes rules of practice and procedure for the filing of applications for stations to operate in the Wireless Telecommunications Services, adjudicatory proceedings including hearing proceedings, and rulemaking proceedings; procedures for reconsideration and review of the Commission's actions; provisions concerning violation notices and forfeiture proceedings; and the environmental processing requirements that, if applicable, must be complied with prior to initiating construction.

* * * * *

(h) Part 20 contains rules relating to commercial mobile radio services.

* * * * *

(i) Part 20 which governs commercial mobile radio service applicable to certain providers in the following services in this part:

* * * * *

■ 3. Amend § 90.7 by removing the definition of ''Navigable waters,'' and by revising the definitions of ''*Frequency coordination*,'' ''*Line A*,'' ''*Location and Monitoring Service (LMS)*,'' ''*Telecommand*,'' and ''*Telephone maintenance licensee*'' to read as follows:

§ 90.7 Definitions.

* * * * *

Frequency coordination. The process of obtaining the recommendation of a frequency coordinator for a frequency(ies) that will most effectively meet the applicant's needs while minimizing interference to licensees already operating within a given frequency band.

* * * * *

Line A. An imaginary line within the U.S., approximately paralleling the U.S.-Canadian border, north of which Commission coordination with the Canadian authorities in the assignment of frequencies is generally required. It begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., then along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minnesota, thence by great circle arc to 45° N., 85° W., thence southward along meridian 85° W. to its intersection with parallel 41° N., to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost of Searsport, Maine, at which point it terminates.

* * * * *

Location and Monitoring Service (LMS). The use of non-voice signaling methods to locate or monitor mobile radio units. LMS systems may transmit and receive voice and non-voice status

and instructional information related to such units.

* * * * *

Telecommand. The transmission of non-voice signals for the purpose of remotely controlling a device.

* * * * *

Telephone maintenance licensee. Communications common carriers engaged in the provision of landline local exchange telephone service, or inter-exchange communications service, and radio communications common carriers authorized under part 21 of this chapter. Resellers that do not own or control transmission facilities are not included in this category.

* * * * *

■ 4. Amend § 90.20 as follows:

■ a. Amend the table in paragraph (c)(3) by removing entry 530 and adding an entry 530 to 1700 in its place;

■ b. Revise the frequency band entries to the table in paragraph (c)(3) for the following entries: 42.40, 152.0075, 157.450, 158.7225, 158.745, 158.790, 158.805, 158.850, 159.465, 159.4725, 163.250, 166.250, 220 to 222, 453.03125, 453.0375, 453.04375, 453.08125, 453.0875, 453.09375, 453.13125, 453.1375, 453.14375, 453.18125, 453.1875, 453.19375, 460.050, 460.05625, 460.0625, 462.9375, and 462.950;

■ c. Revising paragraphs (d)(42), (d)(62), and (d)(64);

■ d. Revise the frequency bands entries to the table in paragraph (d)(66)(i) for the following entries: 463.06875 and 463.08125;

■ e. Amend the table in paragraph (d)(66)(i) by removing entry 460.75 and adding entry 463.075 in its place;

■ f. Revise paragraphs (d)(79), (d)(81), (e)(3) and (e)(4), and (g)(5)(iv), to read as follows:

§ 90.20 Public Safety Pool.

(c) * * *

(3) * * *

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
*	*	*	*
530 to 1700	Base (T.I.S.)	1	PX
*	*	*	*
42.40	.....do	2, 3, 16, 17	PP
*	*	*	*
152.0075	Base	13, 29, 30	PS
*	*	*	*
157.450	Base	13, 30, 45	PS
*	*	*	*
158.7225	Base or mobile	44	PP
*	*	*	*
158.745	.....do	81	PX
*	*	*	*
158.790	.....do		PP
*	*	*	*
158.805	.....do		PX
*	*	*	*
158.850	.....do		PP
*	*	*	*
159.465	.....do	81	PO
159.4725	.....do	80	PO
163.250	Base	13, 30	PS
166.250	Base or mobile	47	PF
*	*	*	*
220 to 222	Base or mobile	55	
453.03125	Base or mobile	44, 49, 62, 84	PM
453.0375	.....do	27, 59, 62, 84	PX
453.04375	.....do	44, 49, 62, 84	PM
*	*	*	*
453.08125	Base or mobile	44, 59, 62, 84	PM
453.0875	.....do	27, 59, 62, 84	PX
453.09375	.....do	44, 59, 62, 84	PM
*	*	*	*
453.13125	Base or mobile	44, 59, 62, 84	PM
*	*	*	*
453.1375	.....do	27, 59, 62, 84	PX
453.14375	.....do	44, 59, 62, 84	PM

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
453.18125	Base or mobile	44, 59, 62	PM
453.1875	.....do	27, 59, 62	PX
453.19375	.....do	44, 59, 62	PM
* *	* *	* *	*
460.050	.....do		PP
460.05625	.....do	44	PP
460.0625	.....do	27	PP
* *	* *	* *	*
462.9375	.....do	57	PF
462.950	.....do	38, 65	PM
* *	* *	* *	*

(d) * * *

(42) This frequency may not be assigned within 161 km (100) miles of New Orleans, LA (coordinates 29°56′53″ N and 90°04′10″ W).

* * * * *

(62) This frequency is also authorized for use by biomedical telemetry stations. F1B, F1D, F2B, F2D, F3E, G1B, G1D, G2B, G2D, and G3E emissions may be authorized for biomedical transmissions.

* * * * *

(64) Use of this frequency is on a secondary basis, limited to 2 watts output power and subject to the provisions of 90.267(h)(1), (h)(2), (h)(3), and (h)(4).

* * * * *

(66) * * *

(i) * * *

Frequencies base and mobile (megahertz)	Mobile only (MHz)	Channel name
* *	* *	*
463.06875	468.06875	MED–33
463.075	468.075	MED–4
463.08125	468.08125	MED–41
* *	* *	*

* * * * *

(79) This frequency will be secondary to marine port operations within 161 km (100 miles) of Los Angeles, Calif. (coordinates 34°03′15″ N and 118°14′28″ W).

* * * * *

(81) After December 7, 2000 new stations will only be licensed with an authorized bandwidth not to exceed 1125 kHz. Licensees authorized prior to December 7, 2000 may continue to use bandwidths wider that 1125 kHz on a co-primary basis until January 1, 2005. After January 1, 2005, all stations operating with an authorized bandwidth greater than 11.25 kHz will be secondary to adjacent channel interoperability operations.

* * * * *

(e) * * *

(3) The frequency bands 31.99–32.00 MHz, 33.00–33.01 MHz, 33.99–34.00 MHz, 37.93–38.00 MHz, 39.99–40.00 MHz, and 42.00–42.01 MHz, are available for assignment for developmental operation subject to the provisions of subpart Q of this part.

(4) Frequencies in the 421–430 MHz band are available in the Detroit, Mich., Cleveland, Ohio and Buffalo, N.Y. areas in accordance with the rules in §§ 90.273 through 90.281.

* * * * *

(g) * * *

(5) * * *

(iv) The following table, along with the antenna height (HAAT) and power (ERP), must be used to determine the minimum separation required between proposed base stations and co-channel public coast stations licensed prior to July 6, 1998 under part 80 of this chapter. Applicants whose exact ERP or HAAT are not reflected in the table must use the next highest figure shown.

* * * * *

§ 90.35 [Amended]

■ 5. Amend § 90.35 as follows:

■ a. Revise the frequency band entries to the table in paragraph (b)(3) for the following entries: 27.555, 27.615, 27.635, 27.655, 27.765, 27.86, 29.71, 33.12, 35.44, 35.48, 35.52, 151.89, 151.955, 158.1225, 173.250, 173.300, 173.350, 220 to 222, 451.01875, 462.9375, 464.575; and

■ b. Revise paragraphs (c)(14), (c)(20), (c)(21), (d)(2), (e)(4), and (g), to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(b) * * *

(3) * * *

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
27.555	Base or mobile	89	
27.615	.....do	89	
27.635	.....do	89	
27.655	.....do	89	
27.765	.....do	89	
27.86	.....do	82	
29.71	.....do		

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
33.12	Mobile	11	
* *	* *	* *	*
35.44	.....do		
35.48	.....do		
35.52	.....do		
* *	* *	* *	*
151.89	.....do		
* *	* *	* *	*
151.955	.....do		
* *	* *	* *	*
158.1225	.....do	33	IW
* *	* *	* *	*
173.250	Base or mobile		IP, IW
* *	* *	* *	*
173.300	Base or mobile		IP, IW
* *	* *	* *	*
173.350	Base or mobile		
* *	* *	* *	*
220 to 222	Base or mobile		
* *	* *	* *	*
451.01875	Base or mobile	33	IW
* *	* *	* *	*
462.9375	Mobile	88	
* *	* *	* *	*
464.575	.....do	62	
* *	* *	* *	*

* * * * *

(c) * * *

(14) Operation on this frequency is limited to a maximum output power of 1 watt and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may provide the operational functions of a base or fixed station on a secondary basis to mobile service operations, provided that the separation between the control point and the center of the radiating portion of the antenna of any units so used does not exceed 8m (25 ft.).

* * * * *

(20) In the State of Alaska only, the frequency 44.10 MHz is available for assignment on a primary basis to stations in the Common Carrier Rural Radio Service utilizing meteor burst communications. The frequency may be used by private radio stations for meteor burst communications on a secondary, non-interference basis. Usage shall be in accordance with parts 22 and 90 of this chapter. Stations utilizing meteor burst communications shall not cause harmful interference to stations of other radio services operating in accordance with the allocation table.

(21) In the State of Alaska only, the frequency 44.20 MHz is available for assignment on a primary basis to private land mobile radio stations utilizing meteor burst communications. The frequency may be used by common carrier stations for meteor burst communications on a secondary, non-interference basis. Usage shall be in accordance with parts 22 and 90 of this chapter. Stations utilizing meteor burst communications shall not cause harmful interference to stations of other radio services operating in accordance with the allocation table.

* * * * *

(d) * * *

(2) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257).

* * * * *

(e) * * *

(4) Authorizations for multiple frequencies for geophysical operations will be granted on the frequencies governed by the limitations in paragraphs (c)(3) and (c)(4) of this section. However, each geophysical exploration party may use a maximum of four frequencies at any one time.

* * * * *

(g) The frequencies 10–490 kHz are used to operate electric utility Power Line Carrier (PLC) systems on power transmission lines for communications essential to the reliability and security of electric service to the public, in accordance with part 15 of this chapter. Any electric utility that generates, transmits, or distributes electrical energy for use by the general public or by the members of a cooperative organization may operate PLC systems and shall supply to a Federal Communications Commission/National

Telecommunications and Information Administration recognized industry-operated entity, information on all existing, changes to existing, and proposed systems for inclusion in a data base. Such information shall include the frequency, power, location of transmitter(s), location of receivers and other technical and operational parameters, which would characterize the system's potential both to interfere with authorized radio users, and to receive harmful interference from these users. In an agreed upon format, the industry-operated entity shall inform the FCC and the NTIA of these system characteristics prior to implementation of any proposed PLC system and shall provide monthly or periodic lists with supplements of PLC systems. The FCC and NTIA will supply appropriate application and licensing information to the notification activity regarding authorized radio stations operating in the band. PLC systems in this band operate on a non-interference basis to radio systems assigned frequencies by the NTIA or licensed by the FCC and are not protected from interference due to these radio operations.

■ 6. Amend § 90.103 by revising the entry for ''1750 to 1800'' to the table in paragraph (b), and revising paragraphs (c)(2), (c)(6), removing and reserving (c)(7), and by revising paragraph (c)(21) to read as follows:

§ 90.103 Radiolocation Service.

* * * * *

(b) * * *

Frequency or band	Class of station(s)	Limitation
*	*	*
1750 to 1800	.....do	5, 6
*	*	*

(c) * * *

(2) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to the LORAN Navigation System; all operations are limited to radiolocation land stations in accordance with footnote US104, § 2.106 of this chapter.

* * * * *

(6) Because of the operation of stations having priority on the same or adjacent frequencies in this or in other countries, frequency assignments in this band may either be unavailable or may be subject to certain technical or operational limitations. Therefore, applications for frequency assignments in this band shall include information concerning the transmitter output power, the type and directional characteristics of the antenna and the minimum hours of operation (GMT).

(7) [Reserved]

* * * * *

(21) Non-Government radiolocation stations in the band are secondary to the Government Radiolocation Service, the Amateur Radio Service and the Amateur-Satellite Service. Pulse-ranging radiolocation stations in this band may be authorized along the shorelines of Alaska and the contiguous 48 states. Radiolocation stations using spread spectrum techniques may be authorized in the band 420–435 MHz for operation within the contiguous 48 states and Alaska. Also, stations using spread spectrum techniques shall be limited to a maximum output power of 50 watts, shall be subject to the applicable technical standards in § 90.209 until such time as more definitive standards are adopted by the Commission and shall identify in accordance with § 90.425(c)(2). Authorizations will be granted on a case-by-case basis; however, operations proposed to be located within the zones set forth in footnote US217, § 2.106 of this chapter should not expect to be accommodated.

* * * * *

■ 7. Amend § 90.129 by revising paragraph (i) to read as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

* * * * *

(i) Showings required in connection with the use of frequencies as specified in subpart S of this chapter.

* * * * *

■ 8. Revise § 90.138 to read as follows:

§ 90.138 Applications for itinerant frequencies.

An application for authority to conduct an itinerant operation in the Industrial/Business Pool must be restricted to use of itinerant frequencies or other frequencies not designated for permanent use and need not be accompanied by evidence of frequency coordination. Users should be aware that no interference protection is provided from other itinerant operations.

■ 9. Revise § 90.157 to read as follows:

§ 90.157 Discontinuance of station operation.

An authorization shall cancel automatically upon permanent discontinuance of operations. Unless stated otherwise in this part or in a station authorization, for the purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued.

■ 10. Amend § 90.203 by revising paragraph (n) to read as follows:

§ 90.203 Certification required.

* * * * *

(n) Transmitters designed to operate in the voice mode on channels designated in §§ 90.531(b)(5) or 90.531(b)(6) that do not provide at least one voice path of 6.25 kHz of spectrum bandwidth shall not be manufactured in or imported into the United States after December 31, 2006. Marketing of these transmitters shall not be permitted after December 31, 2006.

* * * * *

■ 11. Amend § 90.207 by revising paragraph (b) to read as follows:

§ 90.207 Types of emissions.

* * * * *

(b) Authorizations to use A3E, F3E, or G3E emission also include the use of emissions for tone signals or signaling devices whose sole functions are to establish and to maintain communications, to provide automatic station identification, and for operations in the Public Safety Pool, to activate emergency warning devices used solely for the purpose of advising the general public or emergency personnel of an impending emergency situation.

* * * * *

■ 12. Amend § 90.209 in the table to paragraph (b)(5) by removing the entry for 216–2205 and adding an entry for 216–220, and footnote 5 and removing the entry for 2450–2483.52 and adding an entry for 2450–2483.5 and revising footnote 3 to read as follows:

§ 90.209 Bandwidth limitations.

* * * * *

(b) * * *

(5) * * *

STANDARD CHANNEL SPACING/BANDWIDTH

Frequency band (MHz)	Channel spacing (kHz)	Authorized bandwidth (kHz)
*	*	*
216–220 [5] ..	6.25	20/11.25/6
*	*	*
[3] 2450–2483.5 [2].		
*	*	*
*	*	*

[2] Bandwidths for radiolocation stations in the 420–450 MHz band and for stations operating in bands subject to this footnote will be reviewed and authorized on a case-by-case basis.

[3] Operations using equipment designed to operate with a 25 kHz channel bandwidth will be authorized a 20 kHz bandwidth. Operations using equipment designed to operate with a 12.5 kHz channel bandwidth will be authorized a 11.25 kHz bandwidth. Operations using equipment designed to operate with a 6.25 kHz channel bandwidth will be authorized a 6 kHz bandwidth.

* * * * *

[5] See § 90.259.

* * * * *

■ 13. Amend § 90.210 by revising paragraph (l)(6) to read as follows:

§ 90.210 Emission masks.

* * * * *

(l) * * *

(6) On any frequency removed from the assigned frequency above 150% of the authorized bandwidth: 40 dB.

* * * * *

■ 14. Amend § 90.212 by revising paragraph (c) to read as follows:

§ 90.212 Provisions relating to the use of scrambling devices and digital voice modulation.

* * * * *

(c) The transmission of any non-voice information or data under the authorization of F1E or G1E emission is prohibited. However, stations authorized the use of F1E or G1E emission may also be authorized F1D, F2D, G1D or G2D emission for non-voice communication purposes, pursuant to § 90.207(l).

* * * * *

■ 15. Amend § 90.219 by revising paragraph (c) to read as follows:

§ 90.219 Use of signal boosters.

* * * * *

(c) Class A narrowband boosters must meet the out-of-band emission limits of § 90.210 for each narrowband channel that the booster is designed to amplify. Class B broadband signal boosters must meet the emission limits of § 90.210 for frequencies outside of the booster's designed passband.

* * * * *

■ 16. Amend § 90.233 by revising paragraph (c) to read as follows:

§ 90.233 Base/mobile non-voice operations.

* * * * *

(c) Provisions of this section do not apply to authorizations for paging, telemetry, radiolocation, automatic vehicle monitoring systems (AVM), radioteleprinter, radio call box operations, or authorizations granted pursuant to subpart T of this part.

■ 17. Amend § 90.235 by revising paragraphs (e) and (l) to read as follows:

§ 90.235 Secondary fixed signaling operations.

* * * * *

(e) Until December 31, 1999, for systems in the Public Safety Pool authorized prior to June 20, 1975, and Power and Petroleum licensees as defined in § 90.7 authorized prior to June 1, 1976, the maximum duration of any signaling transmission shall not exceed 6 seconds and shall not be repeated more than 5 times. Such systems include existing facilities and additional facilities which may be authorized as a clear and direct expansion of existing facilities. After December 31, 1999, all signaling systems shall be required to comply with the 2 second message duration and 3 message repetition requirements.

* * * * *

(l) Secondary fixed signaling operations conducted in accordance with the provisions of §§ 90.317(a) or 90.637 are exempt from the foregoing provisions of this section.

■ 18. Amend § 90.237 by revising paragraphs (a) and (g) to read as follows:

§ 90.237 Interim provisions for operation of radioteleprinter and radiofacsimile devices.

* * * * *

(a) Information must be submitted with an application to establish that the minimum separation between a proposed radioteleprinter or radiofacsimile base station and the nearest co-channel base station of another licensee operating a voice system is 120 km (75 mi) for a single frequency mode of operation, or 56 km (35 mi) for two frequency mode of operation. Where this minimum mileage separation cannot be achieved, either agreement to the use of F1B, F2B, F3C, G1B, G2B or G3C emission must be received from all existing co-channel licensees using voice emission within the applicable mileage limits, or if agreement was not received, the licensee of the radioteleprinter or radiofacsimile system is responsible for eliminating any interference with preexisting voice operations. New licensees of voice operations will be expected to share equally any frequency occupied by established radioteleprinter or radiofacsimile operations.

* * * * *

(g) For single sideband operations in accordance with § 90.266, transmitters certified under this part for use of J3E emission may also be used for A2B and F2B emissions for radioteleprinter transmissions. Transmitters certified under this part for use of J3E emission in accordance with §§ 90.35(c)(1)(A), 90.35(c)(1)(B), 90.35(c)(1)(C) and 90.257(a) may also be used for A1B, A2B, F1B, F2B, J2B, and A3C emissions to provide standby backup circuits for operational telecommunications circuits which have been disrupted, where so authorized in other sections of this part.

■ 19. Amend § 90.241 by revising the introductory text for paragraph (a) to read as follows:

§ 90.241 Radio call box operations.

(a) The frequencies in the 72–76 MHz band listed in § 90.257(a)(1) may be assigned in the Public Safety Pool for operation of radio call boxes to be used by the public to request fire, police, ambulance, road service, and other emergency assistance, subject to the following conditions and limitations:

* * * * *

■ 20. Amend § 90.242 by revising paragraphs (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (a)(6) and (a)(7) to read as follows:

§ 90.242 Travelers' information stations.

(a) * * *

(2) * * *

(i) A statement certifying that the transmitting site of the Travelers' Information Station will be located at least 15 km (9.3 miles) measured orthogonally outside the measured 0.5 mV/m daytime contour (0.1 mV/m for Class A stations) of any AM broadcast station operating on a first adjacent channel or at least 130 km (80.6 miles) outside the measured 0.5 mV/m daytime contour (0.1 mV/m for Class A stations) of any AM broadcast station operating on the same channel, or, if nighttime operation is proposed, outside the theoretical 0.5 mV/m-50% nighttime skywave contour of a U.S. Class A station. If the measured contour is not available, then the calculated 0.5 mV/m field strength contour shall be acceptable. These contours are available at the concerned AM broadcast station and FCC offices in Washington, DC.

(ii) In consideration of possible cross-modulation and inter-modulation interference effects which may result from the operation of a Travelers' Information Station in the vicinity of an AM broadcast station on the second or third adjacent channel, the applicant shall certify that it has considered these possible effects and, to the best of its knowledge, does not foresee interference occurring to broadcast stations operating on second or third adjacent channels.

* * * * *

(3) Travelers' Information Stations will be authorized on a secondary basis

to stations authorized on a primary basis in the band 510–1715 kHz.

(4) A Travelers' Information Station authorization may be suspended, modified, or withdrawn by the Commission without prior notice or right to hearing if necessary to resolve interference conflicts, to implement agreements with foreign governments, or in other circumstances warranting such action.

* * * * *

(6) A Travelers' Information Station shall normally be authorized to use a single transmitter. However, a system of stations, with each station in the system employing a separate transmitter, may be authorized for a specific area provided sufficient need is demonstrated by the applicant.

(7) Travelers' Information Stations shall transmit only noncommercial voice information pertaining to traffic and road conditions, traffic hazard and travel advisories, directions, availability of lodging, rest stops and service stations, and descriptions of local points of interest. It is not permissible to identify the commercial name of any business whose service may be available within or outside the coverage area of a Travelers' Information Station. However, to facilitate announcements concerning departures/arrivals and parking areas at air, train, and bus terminals, the trade name identification of carriers is permitted.

* * * * *

■ 21. Amend § 90.250 by revising paragraphs (f) and (i) to read as follows:

§ 90.250 Meteor burst communications.

* * * * *

(f) The maximum authorized bandwidth is 20 kHz.

* * * * *

(i) Stations employing meteor burst communications shall not cause interference to other stations operating in accordance with the allocation table. New authorizations will be issued subject to the Commission's developmental grant procedure as outlined in subpart Q of this part. Prior to expiration of the developmental authorization, application Form 601 should be filed for issuance of a permanent authorization.

■ 22. Amend § 90.257 by revising paragraph (a)(1) to read as follows:

§ 90.257 Assignment and use of frequencies in the band 72–76 MHz.

(a) * * *

(1) The following frequencies in the band 72–76 MHz may be used for fixed operations:

MHz	
72.02	72.80
72.04	72.82
72.06	72.84
72.08	72.86
72.10	72.88
72.12	72.90
72.14	72.92
72.16	72.94
72.18	72.96
72.20	72.98
72.22	75.42
72.24	75.46
72.26	75.50
72.28	75.54
72.30	75.58
72.32	75.62
72.34	75.64
72.36	75.66
72.38	75.68
72.40	75.70
72.42	75.72
72.46	75.74
72.50	75.76
72.54	75.78
72.58	75.80
72.62	75.82
72.64	75.84
72.66	75.86
72.68	75.88
72.70	75.90
72.72	75.92
72.74	75.94
72.76	75.96
72.78	75.98

* * * * *

■ 23. Amend § 90.259 by revising paragraph (a)(5) to read as follows:

§ 90.259 Assignment and use of frequencies in the bands 216–220 MHz and 1427–1432 MHz.

(a) * * *

(5) In the 217–220 MHz band, base, mobile, and operational fixed operations are permitted.

* * * * *

■ 24. Amend § 90.261 by revising paragraph (c) to read as follows:

§ 90.261 Assignment and use of frequencies in the band 450–470 MHz for fixed operations.

* * * * *

(c) All fixed systems are limited to one frequency pair with 5 MHz spacing and must employ directional antennas with a front-to-back ratio of 15dB, except that omnidirectional antennas having unity gain may be employed by stations communicating with a minimum of three receiving locations encompassed in a sector of at least 160° in azimuth. Stations authorized for secondary fixed operations prior to July 13, 1992, may continue to operate under the conditions of their initial authorization.

* * * * *

■ 25. Revise § 90.263 to read as follows:

§ 90.263 Substitution of frequencies below 25 MHz.

Frequencies below 25 MHz when shown in the radio pool frequency listings under this part will be assigned to base or mobile stations only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant. These frequencies are available for assignment in many areas; however, in individual cases such assignment may be impracticable due to conflicting frequency use authorized to stations in other services by this and other countries. In such cases, a substitute frequency, if found available, may be assigned from the following bands: 1705–1750 kHz, 2107–2170 kHz, 2194–2495 kHz, 2506–2850 kHz, 3155–3400 kHz, or 4438–4650 kHz. Since such assignments are in certain instances subject to additional technical and operation limitations, it is necessary that each application also include precise information concerning transmitter output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation. (This section is not applicable to the Radiolocation Service, subpart F of this part.)

■ 26. Amend § 90.264 by revising paragraph (h) to read as follows:

§ 90.264 Disaster communications between 2 and 10 MHz.

* * * * *

(h) Training exercises which require use of these frequencies for more than seven hours a week, cumulative, are not authorized without prior written approval from the Commission.

■ 27. Amend § 90.303 by revising the table in paragraph (b) to read as follows:

§ 90.303 Availability of frequencies.

* * * * *

(b) * * *

Urbanized area	Geographic center		Bands (MHz)	TV channels
	North latitude	West longitude		
Boston, MA	42°21′24.4″	71°03′23.2″	470–476, 482–488	14, 16
Chicago, IL[1]	41°52′28.1″	87°38′22.2″	470–476, 476–482	14, 15
Cleveland, OH[2]	41°29′51.2″	81°49′49.5″	470–476, 476–482	14, 15
Dallas/Fort Worth, TX	32°47′09.5″	96°47′38.0″	482–488	16
Detroit, MI[3]	42°19′48.1″	83°02′56.7″	476–482, 482–488	15, 16
Houston, TX	29°45′26.8″	95°21′37.8″	488–494	17
Los Angeles, CA[4]	34°03′15.0″	118°14′31.3″	470–476, 482–488, 506–512	14, 16, 20
Miami, FL	25°46′38.4″	80°11′31.2″	470–476	14
New York, NY/NE NJ	40°45′06.4″	73°59′37.5″	470–476, 476–482, 482–488	14, 15, 16
Philadelphia, PA	39°56′58.4″	75°09′19.6″	500–506, 506–512	19, 20
Pittsburgh, PA	40°26′19.2″	79°59′59.2″	470–476, 494–500	14, 18
San Francisco/Oakland, CA	37°46′38.7″	122°24′43.9″	482–488, 488–494	16, 17
Washington, DC/MD/VA	38°53′51.4″	77°00′31.9″	488–494, 494–500	17, 18

[1] In the Chicago, IL, urbanized area, channel 15 frequencies may be used for paging operations in addition to low power base/mobile usages, where applicable protection requirements for ultrahigh frequency television stations are met.
[2] Channels 14 and 15 are not available in Cleveland, OH, until further order from the Commission.
[3] Channels 15 and 16 are not available in Detroit, MI, until further order from the Commission.
[4] Channel 16 is available in Los Angeles, CA, for use by eligibles in the Public Safety Radio Pool.

* * * * *

■ 28. Revise § 90.307 to read as follows:

§ 90.307 Protection criteria.

The tables and figures listed in § 90.309 shall be used to determine the effective radiated power (ERP) and antenna height of the proposed land mobile base station and the ERP for the associated control station (control station antenna height shall not exceed 31 meters (100 feet) above average terrain (AAT)).

(a) Base stations operating on the frequencies available for land mobile use in any urbanized area and having an antenna height (AAT) less than 152 meters (500 feet) shall afford protection to co-channel and adjacent channel television stations in accordance with the values set out in tables A and E of § 90.309, except for channel 15 in New York, NY, and Cleveland, OH, and channel 16 in Detroit, MI, where protection will be in accordance with the values set forth in tables B and E in 47 CFR 90.309.

(b) For base stations having antenna heights between 152 and 914 meters (500–3000 feet) above average terrain, the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure A in § 90.309, except for channel 15 in New York, NY, and Cleveland, OH, and channel 16 in Detroit, MI, where the effective radiated power must be reduced in accordance with Figure B in § 90.309. For heights of more than 152 meters (500 feet) above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the Grade B contour of a co-channel TV station (Grade B contour defined in § 73.683(a) of this chapter), an authorization will not be granted unless it can be shown that actual terrain considerations are such as to provide the desired protection at the Grade B contour, or that the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the Grade B contour will be achieved.

(c) Mobile units and control stations operating on the frequencies available for land mobile use in any given urbanized area shall afford protection to co-channel and adjacent channel television stations in accordance with the values set forth in table C in § 90.309 and paragraph (d) of this section except for channel 15 in New York, NY, and Cleveland, OH, and channel 16 in Detroit, MI, where protection will be in accordance with the values set forth in table D in § 90.309 and paragraph (d) of this section.

(d) The minimum distance between a land mobile base station which has associated mobile units and a protected adjacent channel television station is 145 km (90 miles).

(e) The television stations to be protected (co-channel, adjacent channel, IM, and IF) in any given urbanized area, in accordance with the provisions of paragraphs (a), (b), (c), and (d) of this section, are identified in the Commission's publication ''TV stations to be considered in the preparation of Applications for Land Mobile Facilities in the Band 470–512 MHz.'' The publication is available at the offices of the Federal Communications Commission in Washington, D.C. or upon the request of interested persons.

■ 29. Amend § 90.309 by revising paragraph (a)(4) and table B in paragraph (a)(5) to read as follows:

§ 90.309 Table and figures.

(a) * * *

(4) In determining the average elevation of the terrain, the elevations between 3.2 kilometers (2 miles) and 16 kilometers (10 miles) from the antenna site are employed. Profile graphs shall be drawn for a minimum of eight radials beginning at the antenna site and extending 16 kilometers (10 miles). The radials should be drawn starting with true north. At least one radial should be constructed in the direction of the nearest co-channel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 12.2 meters (40 feet) to 30.5 meters (100 feet) and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain, 61 meters (200 feet) to 122 meters (400 foot) contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic chart may be used. The average elevation of the 12.8 kilometer (8 mile) distance between 3.2 kilometers (2 miles) and 16 kilometers (10 miles) from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs, the elevation or contour intervals may be taken from U.S. Geological Survey

Topographic Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps. Maps with a scale of 1:250,000 or larger (such as 1:24,000) shall be used. Digital Terrain Data Tapes, provided by the National Cartographic Institute, U.S. Geologic Survey, may be utilized in lieu of maps, but the number of data points must be equal to or exceed that specified above. If such maps are not published for the area in question, the next best topographic information should be used.

(5) * * *

TABLE B.—BASE STATION—COCHANNEL FREQUENCIES (40 dB PROTECTION) MAXIMUM EFFECTIVE RADIATED POWER (ERP) [1]

Distance in kilometers (miles):[2]	Antenna height in meters (feet) (AAT)									
	15 (50)	30.5 (100)	45 (150)	61 (200)	76 (250)	91.5 (300)	106 (350)	122 (400)	137 (450)	152.5 (500)
209 (130)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
201 (125)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	850	750	725
193 (120)	1,000	1,000	1,000	1,000	900	750	675	600	550	500
185 (115)	1,100	1,000	800	725	600	525	475	425	375	350
177 (110)	850	700	600	500	425	375	325	300	275	225
169 (105)	600	475	400	325	275	250	225	200	175	150
161 (100)	400	325	275	225	175	150	140	125	110	100
153 (95)	275	225	175	125	110	95	80	70	60	50
145 (90)	175	125	100	75	50	.....	.....	.....	.....	.....

[1] The effective radiated power (ERP) and antenna height above average terrain shall not exceed the values given in this table.
[2] At this distance from the transmitter site of protected UHF television station.

* * * * *

■ 30. Amend § 90.315 by revising paragraphs (g) and (j) to read as follows:

§ 90.315 Special provisions governing use of frequencies in the 476–494 MHz band (TV Channels 15, 16, and 17) in the Southern Louisiana-Texas Offshore Zone.

* * * * *

(g) To provide adjacent channel protection to television stations, no shore or offshore station shall be allowed within 128 kilometers (80 miles) of the adjacent channel television station.

* * * * *

(j)(1) The following frequency bands are available for assignment in all services for use in the Zones defined in paragraph (a) of this section.

PAIRED FREQUENCIES (MHz)

Zone	Transmit (or receive)	Receive (or transmit)
A	490.01875–490.98125	493.01875–493.98125
B	484.01875–484.98125	487.01875–487.98125
C	478.01875–478.98125	481.01875–481.98125

(2) Only the first and last assignable frequencies are shown. Frequencies shall be assigned in pairs with 3 MHz spacing between transmit and receive frequencies. Assignable frequency pairs will occur in increments of 6.25 kHz. The following frequencies will be assigned for a maximum authorized bandwidth of 6 kHz: 478.01875, 478.98125, 484.01875, 484.98125, 490.01875, 490.98125, 481.01875, 481.98125, 487.01875, 487.98125, 493.01875, and 493.98125 MHz.

* * * * *

■ 31. Amend § 90.353 by revising paragraphs (e) and (f) to read as follows:

§ 90.353 LMS operations in the 902–928 MHz band.

* * * * *

(e) Multilateration EA-licensed systems and grandfathered automatic vehicle monitoring service (AVM) systems (*see* § 90.363) are authorized on a shared basis and must cooperate in the selection and use of frequencies in accordance with § 90.173(b).

(f) Multilateration EA licensees may be authorized to operate on both the 919.75–921.75 MHz and 921.75–927.25 MHz bands within a given EA (*see* § 90.210(b)(5)).

* * * * *

■ 32. Revise § 90.357 to read as follows:

§ 90.357 Frequencies for LMS systems in the 902–928 MHz band.

(a) Multilateration LMS systems will be authorized in the following LMS sub-bands:

LMS Sub-band	Forward Link [1]
904.000–909.750 MHz	927.750–928.000 MHz
919.750–921.750 MHz[2]	927.500–927.750 MHz
921.750–927.250 MHz	927.250–927.500 MHz

[1] Forward links for the LMS systems may also be contained within the LMS sub-band. However, the maximum allowable power in these sub-bands is 30 watts ERP in accordance with § 90.205(k).
[2] The frequency band 919.750–921.750 MHz is shared co-equally between multilateration and non-multilateration LMS systems.

(b) Non-multilateriation LMS systems will be authorized in the following frequency bands:

LMS Sub-band [1]
902.000–904.000 MHz
909.750–921.750 MHz

[1] Applicants for non-multilateration LMS systems should request only the minimum amount of bandwidth necessary to meet their operational needs.

■ 33. Amend § 90.377 by revising paragraph (a) to read as follows:

§ 90.377 Frequencies available; maximum EIRP and antenna height, and priority communications.

(a) Licensees shall transmit only the power (EIRP) needed to communicate with an On-Board Unit (OBU) within the communications zone and must take steps to limit the Roadside Unit (RSU) signal within the zone to the maximum extent practicable.

* * * * *

■ 34. Amend § 90.419 by revising paragraph (f) to read as follows:

§ 90.419 Points of communication.

* * * * *

(f) CMRS licensees in the SMR categories of part 90, subpart S, CMRS providers authorized in the 220 MHz service of part 90, subpart T, CMRS paging operations as defined by part 90, subpart P and for-profit interconnected business radio services with eligibility defined by § 90.35 are permitted to utilize their assigned spectrum for fixed services on a co-primary basis with their mobile operations.

■ 35. Amend § 90.425 by revising paragraphs (a)(4)(iii), (a)(5), and (c)(2) to read as follows:

§ 90.425 Station identification.

(a) * * *

(4) * * *

(iii) In the Industrial/Business Pool, railroad licensees (as defined in § 90.7) may identify stations by the name of the railroad and the train number, caboose number, engine number, or the name of the fixed wayside station. If none of these forms is practicable, any similar name or number may be designated by the railroad concerned for use by its employees in the identification of fixed points or mobile units, provided that a list of such identifiers is maintained by the railroad. An abbreviated name or the initials of the railroad may be used where such are in general usage. In those areas where it is shown that no difficulty would be encountered in identifying the transmission of a particular station (as, for example, where stations of one licensee are located in a yard isolated from other radio installations), approval may be given to a request from the licensee for permission to omit the station identification.

(5) *Use of identifiers in addition to assigned call signs.* Nothing in this section shall be construed as prohibiting the transmission of station or unit identifiers which may be necessary or desirable for system operation, provided that they are transmitted in addition to the assigned station call sign or other permissible form of identification.

* * * * *

(c) * * *

(2) Stations in the Radiolocation Service operating on frequencies above 3400 kHz that employ spread spectrum techniques shall transmit a two letter manufacturer's designator, authorized by the Commission on the station authorization, at the beginning and ending of each transmission and once every 15 minutes during periods of continuing operation. The designator shall be transmitted in International Morse Code at a speed not exceeding 25 words per minute, and the spread spectrum mode of operation shall be maintained while the designator is being transmitted. The identifying signal shall be clearly receivable in the demodulated audio of a narrow-band FM receiver.

* * * * *

■ 36. Amend § 90.465 by revising paragraphs (b) and (c) to read as follows:

§ 90.465 Control of systems of communication.

* * * * *

(b) In internal systems, as defined in § 90.7, control may be maintained by conforming the system to the requirements of §§ 90.471 through 90.475.

(c) In interconnected systems, as defined in § 90.7, control may be maintained by conforming operation and system design to that permitted in §§ 90.477 through 90.483.

■ 37. Amend § 90.475 by revising paragraph (a)(2) to read as follows:

§ 90.475 Operation of internal transmitter control systems in specially equipped systems.

(a) * * *

(2) An internal transmitter control system may be used in conjunction with other approved methods of transmitter control and interconnection so long as the internal transmitter control system, itself, is neither accessed from telephone positions in the public switched telephone network (PSTN), nor uses dial-up circuits in the PSTN. Licensees with complex communications systems involving fixed systems whose base stations are controlled by such systems may automatically access these base stations through the microwave or operational fixed systems from positions in the PSTN, so long as the base stations and mobile units meet the requirements of § 90.483 and if a separate circuit is provided for each mode of transmitter operation (*i.e.*, conventional, dial-up or Internet).

* * * * *

■ 38. Amend § 90.483 by revising paragraphs (b)(1)(ii), (b)(2)(i), and (b)(2)(ii) to read as follows:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

* * * * *

(b) * * *

(1) * * *

(ii) When a frequency is shared by more than one system, automatic monitoring equipment must be installed at the base station to prevent activation of the transmitter when signals of co-channel stations are present and activation would interfere with communications in progress. Licensees may operate without the monitoring equipment if they have obtained the consent of all co-channel licensees located within a 120 kilometer (75 mile) radius of the interconnected base station transmitter. A statement must be submitted to the Commission indicating that all co-channel licensees have consented to operate without the monitoring equipment. If a licensee has agreed that the use of monitoring equipment is not necessary, but later decides that the monitoring equipment is necessary, the licensee may request that the co-channel licensees reconsider the use of monitoring equipment. If the licensee cannot reach an agreement with co-channel licensees, the licensee may request that the Commission consider the matter and assign it to another channel. If a new licensee is assigned to a frequency where all the co-channel licensees have agreed that the use of monitoring equipment is not necessary, and the new licensee does not agree, the new licensee may request the co-channel licensees to reconsider the use of monitoring equipment. If the new licensee cannot reach an agreement with co-channel licensees, it should request a new channel from the Commission. Systems on frequencies above 800 MHz are exempt from this requirement.

(2) * * *

(i) When a frequency is shared by more than one system, automatic monitoring equipment must be installed at the base station to prevent activation of the transmitter when signals of co-channel stations are present and activation would interfere with communications in progress. Licensees may operate without this equipment if they have obtained the consent of all co-channel licensees located within a 120 kilometer (75 mile) radius of the interconnected base station transmitter. A statement must be submitted to the

Commission indicating that all co-channel licensees have consented to operate without the monitoring equipment. If a licensee has agreed that the use of monitoring equipment is not necessary, but later decides that the monitoring equipment is necessary, the licensee may request that the co-channel licensees reconsider the use of monitoring equipment. If the licensee cannot reach an agreement with co-channel licensees, the licensee may request that the Commission consider the matter and assign it to another channel. If a new licensee is assigned to a frequency where all the co-channel licensees have agreed that the use of monitoring equipment is not necessary, and the new licensee does not agree, the new licensee may request the co-channel licensees to reconsider the use of monitoring equipment. If the new licensee cannot reach an agreement with co-channel licensees, it should request a new channel from the Commission. Systems on frequencies above 800 MHz are exempt from this requirement.

(ii) Initial access points within the public switched telephone network must be limited to transmission of a 3-second tone, after which time the transmitter shall close down. No additional signals may be transmitted until acknowledgement from a mobile station of the licensee is received. Licensees are exempt from this requirement if they have obtained the consent of all co-channel licensees located within a 120 kilometer (75 mile) radius of the interconnected base station transmitter. However, licensees may choose to set their own time limitations. A statement must be submitted to the Commission indicating that all co-channel licensees have consented to operate without the monitoring equipment. If a licensee has agreed that the use of monitoring equipment is not necessary, but later decides that the monitoring equipment is necessary, the licensee may request that the co-channel licensees reconsider the use of monitoring equipment. If the licensee cannot reach an agreement with co-channel licensees, the licensee may request that the Commission consider the matter and assign it to another channel. If a new licensee is assigned to a frequency where all the co-channel licensees have agreed that the use of monitoring equipment is not necessary, and the new licensee does not agree, the new licensee may request the co-channel licensees to reconsider the use of monitoring equipment. If the new licensee cannot reach an agreement with co-channel licensees, it should request a new channel from the Commission. Systems on frequencies above 800 MHz are exempt from this requirement.

* * * * *

■ 39. Amend § 90.613 by revising channel 139 of the Table of 896–901/935–940 MHz Channel Designations to read as follows:

§ 90.613 Frequencies available.

TABLE OF 896–901/935–940 MHZ CHANNEL DESIGNATIONS

Channel No.	Base frequency (MHz)
* * * * *	
139	.7375
* * * * *	

* * * * *

[FR Doc. E7–12162 Filed 6–26–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050613158–5262–03; I.D. 090105A]

RIN 0648–AT48

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning

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

ACTION: Temporary rule; emergency action; extension of effective period.

SUMMARY: This action extends a temporary final rule published on October 18, 2005. The regulations contained in the temporary rule, emergency action, published on October 18, 2005, at the request of the U.S. Food and Drug Administration (FDA), and that were subsequently extended on December 28, 2005, June 30, 2006, and again on January 1, 2007, expire on July 1, 2007. This temporary rule extends a closure of Federal waters through December 31, 2007. The FDA has determined that current oceanographic conditions and alga sampling data suggests that the northern section of the Temporary Paralytic Shellfish Poison (PSP) Closure Area remain closed to the harvest of bivalve molluscan shellfish and that the southern area remain closed to the harvest of whole or roe-on scallops. NMFS is publishing the regulatory text associated with this closure in this temporary emergency rule in order to ensure that current regulations accurately reflect the codified text that has been modified and extended numerous times so that the public is aware of the regulations being extended through December 31, 2007.

DATES: The amendments to § 648.14 are effective from July 1, 2007, through December 31, 2007. The expiration date of the temporary emergency action published on January 4, 2007 (72 FR 291), is extended to December 31, 2007. Comments must be received by July 27, 2007.

ADDRESSES: Copies of the small entity compliance guide, the emergency rule, the environmental assessment, and the regulatory impact review prepared for the October 18, 2005, reinstatement of the September 9, 2005, emergency action and subsequent extensions of the emergency action, are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. These documents are also available via the internet at *www.nero.noaa.gov*.

Comments may be submitted by any of the following methods:

- E-mail: *PSP2closure@NOAA.gov*. Include the subject line the following: ''Comments on the July 2007 Emergency Rule for Area closures Due to PSP.≥
- Federal e-Rulemaking Portal: *http://www.regulations.gov*.
- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on July 2007 PSP Closure.''
- Fax: (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Brian Hooker, Fishery Policy Analyst, phone: (978) 281–9220, fax: (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

This emergency closure is being implemented at the request of the FDA after samples of shellfish from the inshore and offshore waters off of the coasts of New Hampshire and Massachusetts tested positive for the toxins (saxotoxins) that cause PSP. These toxins are produced by the alga *Alexandrium fundyense* which can form

blooms commonly referred to as red tides. Red tide blooms, also known as harmful algal blooms (HABs), can produce toxins that accumulate in filter-feeding shellfish. Shellfish contaminated with the toxin, if eaten in large enough quantity, can cause illness or death from PSP.

On June 10, 2005, the FDA requested that NMFS close an area of Federal waters off the coasts of New Hampshire and Massachusetts to fishing for bivalve shellfish intended for human consumption. On June 16, 2005, NMFS published an emergency rule (70 FR 35047) closing the area recommended by the FDA, i.e., the Temporary PSP Closure Area, through September 30, 2005. On July 7, 2005 (70 FR 39192), the emergency rule was modified to facilitate the testing of shellfish for the toxin that causes PSP by the FDA and/or FDA-approved laboratories through the issuance of a Letter of Authorization (LOA) from the NMFS Regional Administrator. On September 9, 2005 (70 FR 53580), the emergency regulation was once again modified by the division of the Temporary PSP Closure Area into northern and southern components. The northern area remained closed to the harvest of all bivalve molluscan shellfish while the southern component was reopened to the harvest of Atlantic surfclams and ocean quahogs but remained closed to the harvest of whole or roe-on scallops. The rule was extended as published on September 9, 2005, on October 3, 2005 (70 FR 57517), reinstated on October 18, 2005 (70 FR 60450) to correct a technical error, extended on December 28, 2005 (70 FR 76713), and subsequently on June 30, 2006 (71 FR 37505), and again on January 4, 2007 (72 FR 291) through June 30, 2007. On May 18, 2007, the FDA indicated that it could not support the re-opening of the Temporary PSP Closure Area due to insufficient analytical data from the area.

The boundaries of the northern component of the Temporary PSP Closure Area comprise Federal waters bound by the following coordinates in the order stated: (1) 43°00′ N. lat., 71°00′ W. long.; (2) 43° 00′ N. lat., 69° 00′ W. long.; (3) 41°39′ N. lat., 69° 00′ W. long.; (4) 41° 39′ N. lat., 71° 00′ W. long., and then ending at the first point. Under this emergency rule, this area would remain closed to the harvest of Atlantic surfclams, ocean quahogs, and whole or roe-on scallops. The boundaries of the southern component of the Temporary PSP Closure Area comprise Federal waters bound by the following coordinates in the order stated: (1) 41° 39′ N. lat., 71° 00′ W. long.; (2) 41° 39′ N. lat., 69° 00′ W. long.; (3) 40° 00′ N. lat., 69° 00′ W. long.; (4) 40° 00′ N. lat., 71° 00′ W. long., and then ending at the first point. Under this emergency rule, this southern component of the area would remain closed only to the harvest of whole or roe-on scallops.

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1855(c). Pursuant to section 5 U.S.C. 553(b)(B) of the Administrative Procedure Act, the Assistant Administrator for Fisheries finds there is good cause to waive prior notice and an opportunity for public comment on this action as notice and comment would be impracticable and contrary to the public interest due to a public health emergency, and public comment has been solicited concurrently with each of the extensions of this actions as detailed and responded to below. In addition, under section 553(d)(3) there is good cause to waive the 30–day delay in effectiveness due to a public health emergency. The original emergency closure was in response to a public health emergency. Toxic algal blooms are responsible for the marine toxin that causes PSP in persons consuming affected shellfish. People have become seriously ill and some have died from consuming affected shellfish under similar circumstances. Pursuant to section 305(c)(3)(C) of the Magnuson-Stevens Act, the closure to the harvest of shellfish, as modified on September 9, 2005, and re-instated on October 18, 2005, may remain in effect until the circumstances that created the emergency no longer exist, provided the public has had an opportunity to comment after the regulation was published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Commerce Secretary's action. During the initial comment period, June 16, 2005, through August 1, 2005, no comments were received. One comment was received after the re-opening of the southern component of the Temporary PSP Closure Area on September 9, 2005. The commenter expressed reluctance to re-opening a portion of the closure area without seeing the results of the FDA tests. Data used to make determinations regarding closing and opening of areas to certain types of fishing activity are collected from Federal, state, and private laboratories. NOAA maintains a Red Tide Information Center (*http://www.cop.noaa.gov/news/fs/ne_hab_200605.html*), which can be accessed directly or through the website listed in the **ADDRESSES** section. Information on test results, modeling of algal bloom movement, and general background on red tide can be accessed through this information center. While NMFS is the agency with the authority to promulgate the emergency regulations, it modified the regulations on September 9, 2005, at the request of the FDA, after the FDA has determined that the results of its tests warranted such action. If necessary, the regulations may be terminated at an earlier date, pursuant to section 305(c)(3)(D) of the Magnuson-Stevens Act, by publication in the **Federal Register** of a notice of termination, or extended further to ensure the safety of human health.

This emergency/interim rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

The rule, as last published on October 18, 2005, was determined to be not significant for the purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 21, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 648 is amended to read as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, paragraphs (a)(170) and (a)(171) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(170) Fish for, harvest, catch, possess or attempt to fish for, harvest, catch, or possess any bivalve shellfish, including Atlantic surfclams, ocean quahogs, and mussels with the exception of sea scallops harvested only for adductor muscles and shucked at sea, or a vessel issued and possessing on board a Letter of Authorization (LOA) from the Regional Administrator authorizing the collection of shellfish for biological sampling and operating under the terms and conditions of said LOA, in the are of the U.S. Exclusive Economic Zone bound by the following coordinates in the order stated:

(i) 43° 00′ N. lat., 71° 00′ W. long.;

(ii) 43° 00′ N. lat., 69° 00′ W. long.;

(iii) 41° 39′ N. lat., 69° 00′ W. long;

(iv) 41° 39′ N. lat., 71° 00′ W. long., and then ending at the first point.

(171) Fish for, harvest, catch, possess, or attempt to fish for, harvest, catch, or possess any sea scallops except for sea scallops harvested only for adductor muscles and shucked at sea, or a vessel issued and possessing on board a Letter of Authorization (LOA) from the Regional Administrator authorizing collection of shellfish for biological sampling and operating under the terms and conditions of said LOA, in the area of the U.S. Exclusive Economic Zone bound by the following coordinates in the order stated:

(i) 41° 39′ N. lat., 71° 00′ W. long.;

(ii) 41° 39′ N. lat., 69° 00′ W. long.;

(iii) 40° 00′ N. lat., 69° 00′ W. long.;

(iv) 40° 00′ N. lat., 71° 00′ W. long., and then ending at the first point.

[FR Doc. E7–12432 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 123
Wednesday, June 27, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

[PRM–34–06]

Organization of Agreement States, Petition for Rulemaking, Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking dated November 3, 2005, which was filed with the Commission by Barbara Hamrick, Chair, Organization of Agreement States (OAS). The petition was docketed by the NRC on November 16, 2005, and has been assigned docket number PRM–34–06. The petitioner requests that the NRC amend its regulations to require that an individual receive at least 40 hours of radiation safety training before using sources of radiation for industrial radiography, by revising the requirements for at least two qualified individuals to be present at a temporary job site, and by clarifying how many individuals are required to meet surveillance requirements. The petitioner also requests that NUREG–1556, Volume 2, be revised to reflect the proposed amendments. As part of the petition for rulemaking review process, the NRC will hold a transcribed public meeting with the petitioner to obtain information about two specific issues relative to the petition. The meeting is open to the public and all interested parties may participate.

DATES: August 15, 2007 (1–3 p.m., Eastern)

ADDRESSES: The meeting will be held via an audio teleconference at the U.S. Nuclear Regulatory Commission (NRC) Headquarters, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Thomas Young, telephone: (301) 415–5795, e-mail: *tfy@nrc.gov* of the Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Mail Stop T8F3, Washington, DC 20555–0001. Interested members of the public can participate in this meeting via a toll-free audio teleconference. For details, please contact Thomas Young to pre-register for the meeting. If special equipment is needed by those participating in the public meeting, contact Mr. Young no later than July 27, 2007, to provide sufficient notice to determine whether the equipment is available.

SUPPLEMENTARY INFORMATION: The NRC, Office of Federal and State Materials and Environmental Management Programs, Petition Review Board has requested this transcribed public meeting to ensure full understanding for two specific issues, training and economic impact, which NRC identified during evaluation of the petitioner's request in PRM–34–06. The meeting materials are available from the NRC Web site, *http://www.nrc.gov/public-involve/public-meetings/index.cfm*, or by contacting Thomas Young, telephone: (301) 415–5795, e-mail: *tfy@nrc.gov*. The two specific issues, training and economic impact, are described below with discussion questions for each issue.

Regarding the training issue, the Petition Review Board is seeking an explanation to resolve an apparent inconsistency in the petitioner's request. The petitioner requested that NRC amend the regulations to relax an existing requirement to allow industrial radiographic personnel to be occupied with tasks (e.g., dark room duties) that are unrelated to safety during industrial radiographic operations and also requested that the regulations be amended to include additional radiation safety training requirements for the personnel. These requests seem to conflict.

The petitioner requested that 10 CFR 34.41, ''Conducting industrial radiographic operations,'' paragraph (a) be amended to remove the requirement that the additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The petitioner requested that 10 CFR 34.43, ''Training,'' be amended to limit a licensee from permitting an individual to act as a radiographer or a radiographer's assistant until the individual has successfully completed an accepted course of at least 40 hours on the applicable subjects listed in paragraph (g), e.g., concerning fundamentals of radiation safety, radiation detection instrumentation, and equipment.

Two questions about training are as follows. (1) What is the rationale for requiring more radiation safety training for a radiographer's assistant who would not be required to observe the operations and provide immediate assistance to prevent unauthorized entry? (2) Does an individual completing the course to become a radiographer's assistant need to take another course before a licensee can permit the individual to act as a radiographer, if the petitioner intends for the radiographer and radiographer's assistant to complete the same course of applicable subjects on radiological safety, detection, and use of equipment as listed in paragraph (g)?

Regarding the issue of economic impact, the Petition Review Board is seeking new, relevant information about the economic impact of implementing the rule. In response to the notice of receipt of the petition for rulemaking (70 FR 76724, December 28, 2005), the NRC received two comment letters; one from the Conference of Radiation Control Program Directors, Inc. and the other from the Texas Department of State Health Services. These organizations supported the petitioner's request. The industrial radiography community did not comment on the petitioner's request and the lack of comment from the industry was somewhat unexpected because the industry's interest had been relatively high in previous rulemaking activities for 10 CFR part 34. In the past, the industry supported the two person requirement at 10 CFR 34.41(a) and indicated that the additional cost of safety would be borne by the customers, not necessarily by the licensees.

The petitioner contacted certain industrial radiography licensees that operate in both the State of Texas and in NRC's jurisdiction to assess the cost of implementing 10 CFR 34.41(a) and obtained general information, e.g., an additional person would cost $200 per day (including travel and per diem) and the cost of additional time would be

$10–$12 per hour (not including overtime pay).

Two questions about economic impact are as follows. (1) What is the actual economic impact on a licensee in the current regulatory environment where NRC and Agreement States do not implement the rule in an essentially identical manner? (2) Have changes in industry practice occurred since 1997 that have minimized the effectiveness of 10 CFR 34.41(a)?

The agenda for the meeting is as follows: Welcome and purpose of the meeting, 10 minutes; PRM 34–06 evaluation process and milestones, 10 minutes; Petition Review Board and petitioner discussion of the training issue, 40 minutes; Petition Review Board and petitioner discussion of the economic impact issue, 40 minutes; public comment on the issues, 15 minutes; closing remarks, 5 minutes. If necessary, NRC may impose a time limit on a speaker to ensure that all speakers may comment within the time that is available.

Members of the public who have registered to participate in this meeting should call the teleconference approximately 15 minutes prior to the meeting. The toll free number will be provided to each registrant prior to the meeting.

Dated at Rockville, Maryland, this 21st day of June, 2007.

For the Nuclear Regulatory Commission.

Dennis K. Rathbun,

Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E7–12421 Filed 6–26–07; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

RIN 3064–AD18

Extension of Time Period for Quarterly Reporting of Bank Officers' and Certain Employees' Personal Securities Transactions

AGENCY: Federal Deposit Insurance Corporation (''FDIC'').

ACTION: Notice of proposed rule with request for comment.

SUMMARY: The FDIC proposes to amend its rule concerning the period of time that officers and all employees of state nonmember banks who make or participate in investment decisions for the accounts of customers (''certain employees'') have to report their personal securities transactions after the end of the calendar quarter. The revision would extend the time period from 10-business days to 30-calendar days after the end of the calendar quarter for bank officers and certain employees to report personal securities transactions to the bank. This revision reflects certain developments in Federal securities regulations.

DATES: Comments on the rule must be received by August 27, 2007.

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

- *Agency Web Site: http://www.FDIC.gov/regulations/laws/federal/notices.html.* Follow instructions for submitting comments on the Agency Web Site.
- *E-mail: Comments@FDIC.gov.* Include ''Part 344 Revision'' on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All comments received will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal/propose.html*, including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1022, 3502 North Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Serena L. Owens, Chief, Planning and Program Development, (202) 898–8996; or Anthony J. DiMilo, Trust Examination Specialist, (202) 898–7496, in the Division of Supervision and Consumer Protection; Julia E. Paris, Senior Attorney, (202) 898–3821, in the Legal Division.

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC's recordkeeping and confirmation requirements for effecting securities transactions are set forth in 12 CFR part 344. Part 344 includes a provision that state nonmember banks effecting such transactions must establish written policies and procedures for supervising all officers and all employees of state nonmember banks who, in connection with their duties, make or participate in investment decisions for the accounts of customers (''certain employees''). At the time part 344 originally was adopted, it reflected the U.S. Securities and Exchange Commission's (''SEC'') recommendations contained in the Final Report of the Securities and Exchange Commission on Bank Securities Activities (June 30, 1977) and generally was patterned after SEC regulations.[1] Section 344.9(a)(3) requires officers and certain employees to report to the bank all securities transactions made by them or on their behalf in which they have a beneficial interest within 10-business days after the end of the calendar quarter. As adopted, this provision was intended to be comparable to the SEC's Rule 17j–1 of the Investment Company Act of 1940, which required ''access persons'' to report personal securities transactions quarterly and originally mandated a 10-business day period for reporting.[2] Contemporaneous to the FDIC's original rulemaking, the Office of the Comptroller of the Currency (''OCC'') and the Board of Governors of the Federal Reserve System adopted substantially similar rules concerning quarterly reporting requirements that mandated a 10 day time period for reporting.[3] In 2002, the Office of the Thrift Supervision adopted a substantially similar regulation.[4]

The SEC, in July 2004, amended Rule 17j–1 to extend the reporting time period to 30-calendar days after the end of the calendar quarter.[5] The effective date of the SEC's amendments to Rule 17j–1 was August 31, 2004, with a compliance date of January 7, 2005. To date, no federal banking agency has amended its rule to conform to the SEC's amended Rule 17j–1 of the Investment Company Act of 1940.[6]

II. Description of Proposal

Consistent with the 2004 amendments to SEC's Rule 17j–1, the FDIC proposes to amend section 344.9(a)(3) to extend to 30-calendar days after the end of the calendar quarter the time period for reporting quarterly personal securities transactions. In addition, the FDIC proposes this amendment in order to

[1] 44 FR 43260 (July 24, 1979); *see* 45 FR 73898 (Nov. 7, 1980) (SEC final rule 17j–1 adopting investment advisor code of ethics and disclosure requirements for ''access persons,'' as defined by 17 CFR 270.17–j–1(a)(1)).

[2] *See* 17 CFR 270.17j–1(c)(2) (1998); 45 FR 73898 (Nov. 7, 1980).

[3] *See* 12 CFR 12.7(a)(4) (OCC's current rule), 12 CFR 208.34(g)(4) (FRB's current rule).

[4] 67 FR 76299 (Dec. 12, 2002); 12 CFR 551.150(a) (OTS's current rule).

[5] 69 FR 41696 (July 9, 2004).

[6] *See* 12 CFR 12.7(a)(4) (OCC's current rule), 12 CFR 208.34(g)(4) (FRB's current rule), 12 CFR 551.150(a) (OTS's final rule). However, in OCC Interpretative Letter No. 1062 (May 2006), the OCC granted a waiver of its 10-day reporting time period in favor of a 30-calendar day time period in order to be consistent with revised Rule 17j–1.

promote practical and uniform recordkeeping requirements consistent with the purpose of part 344.[7]

III. Regulatory Analysis and Procedure

A. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the FDIC to use ''plain language'' in all proposed and final rules published after January 1, 2000. The FDIC invites comments on whether the proposal is clearly stated and effectively organized, and how the FDIC might make the proposed text easier to understand.

B. Regulatory Flexibility Act

In accordance with section 3(a) of the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603(a), the FDIC must publish an initial regulatory flexibility analysis with this rulemaking or certify that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA analysis or certification, financial institutions with total assets of $165 million or less are considered to be ''small entities.'' For the reasons set forth below, the FDIC hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule would amend the FDIC's rule to extend to 30-calendar days after the end of the calendar quarter the period of time for officers and certain employees of state nonmember banks to report their personal securities transactions. In effect, it would extend the existing time period to give these individuals more latitude to report their quarterly securities transactions and to allow state nonmember banks more time to comply with part 344. The proposed rule does not impose any new or different substantive requirements that are not already imposed under part 344. Accordingly, if adopted in final form, the proposed rule would not impose any additional burden or economic impact on small entities.

C. Paperwork Reduction Act

No new collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the proposed rule.

D. The Treasury and General Government Appropriations Act of 1999—Assessment of Federal Rules and Policies on Families

The FDIC has determined that this proposal will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 344

Banks, banking, Reporting and recordkeeping requirements, Securities, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board of Directors of the FDIC proposes to amend part 344 of title 12 of chapter III of the Code of Federal Regulations as set forth below:

PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

1. The authority citation for part 344 continues to read as follows:

Authority: 12 U.S.C. 1817, 1818, and 1819.

2. In § 344.9, revise paragraph (a)(3) to read as follows:

§ 344.9 Personal securities trading reporting by bank officers and employees.

(a) * * *

* * * * *

(3) In connection with their duties, obtain information concerning which securities are being purchased or sold or recommend such action, must report to the bank, within 30-calendar days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales.

* * * * *

By Order of the Board of Directors.

Dated at Washington, DC, the 19th day of June, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E7–12239 Filed 6–26–07; 8:45 am]

BILLING CODE 6714–01–P

[7] *See* 60 FR 7111 (Feb. 7, 1995) (amending part 344 to include express waiver authority in order to tailor application of rule to promote practical compliance without undermining intent of part 344).

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 575

[No. OTS–2007–0012]

RIN 1550–AC15

Optional Charter Provisions in Mutual Holding Company Structures

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to amend its mutual holding company (MHC) regulations to permit certain MHC subsidiaries to adopt an optional charter provision that would prohibit any person from acquiring, or offering to acquire, beneficial ownership of more than ten percent of the MHC subsidiary's minority stock (stock held by persons other than the subsidiary's MHC).

DATES: Comments must be received on or before August 27, 2007.

ADDRESSES: You may submit comments, identified by OTS–2007–0012, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select ''Office of Thrift Supervision'' from the agency drop-down menu, then click submit. Select Docket ID ''OTS–2007–0012'' to submit or view public comments and to view supporting and related materials for this notice of proposed rulemaking. The ''User Tips'' link at the top of the page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: OTS–2007–0012.
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: OTS–2007–0012.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be entered into the docket and posted on Regulations.gov without change, including any personal information provided. Comments, including attachments and other supporting

materials received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Viewing Comments Electronically: Go to *http://www.regulations.gov,* select ''Office of Thrift Supervision'' from the agency drop-down menu, then click ''Submit.'' Select Docket ID ''OTS–2007–0012'' to view public comments for this notice of proposed rulemaking.

Viewing Comments On-Site: You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT: Donald W. Dwyer, (202) 906–6414, Director, Applications, Examinations and Supervision—Operations; or David A. Permut, (202) 906–7505, Senior Attorney, Business Transactions Division, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Under the MHC Regulations, a subsidiary MHC, or, where there is no subsidiary MHC, the former mutual savings association that reorganized into an MHC structure (collectively, Subsidiary Company), may sell less than 50 percent of its voting stock to parties other than the top-tier MHC.[1]

Under OTS's current regulations, a Subsidiary Company may adopt a charter provision that prohibits any person from acquiring, or offering to acquire, beneficial ownership of more than 10 percent of the Subsidiary Company's stock during the five years after a minority stock issuance.[2] The purpose of this provision, as is the case with fully converted associations, is to lessen the vulnerability of the entity to attempts to take unfair advantage of the results of the offering, to protect the integrity of the offering, and to ensure that the offering is completed in a manner that strengthens the issuer.[3]

OTS has recently become aware of several situations in which minority stockholders have acquired positions in the minority stock of Subsidiary Companies, and have taken actions that appear intended to influence management to engage in stock repurchases or in a sale of the institution. Because a top-tier MHC is required to retain more than 50 percent of the stock of any Subsidiary Company, holders of minority stock (minority stockholders) cannot control the outcome of most issues presented to the stockholders of the Subsidiary Company. However, there are circumstances where OTS's regulations provide that a majority of the minority stock must approve a proposal.[4]

Minority stockholders may acquire a significant percentage of the minority stock without involving either the OTS Acquisition of Control Regulations or the charter provision discussed above, both of which are triggered by an acquisition of more than ten percent of the *outstanding* stock. For example, if a Subsidiary Company issues thirty percent of its stock in a public offering, a minority stockholder could acquire a third of those shares without implicating either the Control Regulations or the charter provision. In such a case, the minority stockholder may obtain a significant amount of influence, based on its ability to vote on the issues that must be presented separately to minority stockholders.

OTS believes that such a result would be contrary to the purposes of the restrictions addressing post-offering acquisitions of stock in the context of conversions and minority stock offerings, that is, lessening the vulnerability of the entity to attempts to take unfair advantage of the results of the offering, to protect the integrity of the offering, and to ensure that the offering is completed in a manner that strengthens the issuer. Therefore, OTS is proposing to add a provision to the MHC Regulations, which could be adopted only by companies in the MHC structure, that would provide that no entity, or person or group acting in concert could acquire more than ten percent of the outstanding minority stock of a Subsidiary Company during the five years after a Minority Stock Issuance. If a stockholder violated this charter provision, the stockholder would not be permitted to vote any stock the stockholder acquired in excess of the limit.

OTS proposes that the charter provision would not limit the stockholdings of the parent MHC, because the parent MHC, under the Home Owners' Loan Act, must own more than fifty percent of the Subsidiary Company. In addition, OTS proposes that the charter provision except stock held by the Subsidiary Company's Employee Stock Ownership Plan (ESOP) from this limitation, because ESOP acquisitions do not present the concerns that have resulted in OTS limiting post-conversion acquisitions of stock.[5]

II. Solicitation of Comments

A. Solicitation of Comments on the Proposed Amendments

OTS is requesting comment on all aspects of the proposed regulation. Specifically OTS seeks comment on:

(1) Does the proposed regulation accomplish its stated purposes?

(2) Does the proposed regulation create any ambiguities that were not present in the current regulation?

(3) Does the proposed regulation impose unnecessary regulatory burdens?

B. Solicitation of Comments Regarding the Use of Plain Language

Section 722 of GLBA requires federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. OTS invites comments on how to make this proposed rule easier to understand. For example:

(1) Have we organized the material to suit your needs? If not, how could we better organize it?

(2) Do we clearly state the requirements in the rule? If not, how could we state the rule more clearly?

(3) Does the rule contain technical language or jargon that is not clear? If so, what language requires clarification?

(4) Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?

III. Regulatory Findings

A. Paperwork Reduction Act

OTS has determined that this proposed rule does not involve a change to collections of information previously approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

[1] *See,* 12 CFR 575.7 and 575.14(b) (2006). See also 12 U.S.C. 1467a(o)(8)(B).

[2] *See* 12 CFR 552.4(b)(8) and 575.14(c)(2) (2006).

[3] *See, e.g.,* Federal Home Loan Bank Board Order No. 84–90 (Feb. 23, 1984).

[4] *See* 12 CFR 563b.500(a)(7), 563b.555, 575.11(i) and 575.12(a)(3) (2006).

[5] *See* 12 CFR 563b.525(c)(4)(2006), and the optional charter provision at section 552.4, both of which except ESOPs from the post-conversion acquisition restrictions of section 563b.525.

B. Executive Order 12866

The Director of OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601), the Director certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule would permit Subsidiary Companies to adopt an optional charter provision. Accordingly, OTS has determined that a Regulatory Flexibility Analysis is not required.

D. Unfunded Mandates Reform Act of 1995

OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more and that a budgetary impact statement is not required under Section 202 of the Unfunded Mandates Reform Act of 1995, Publication Law 104–4 (Unfunded Mandates Act). The proposed rule would permit Subsidiary Companies to adopt an optional charter provision. The proposed rule changes should not have a significant impact on small institutions. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 575

Administrative practice and procedure, Capital, Holding companies, Reporting and recordkeeping requirements, Savings Associations, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Office of Thrift Supervision proposes to amend Chapter V of title 12 of the Code of Federal Regulations, as set forth below:

PART 575—MUTUAL HOLDING COMPANIES

1. The authority citation for 12 CFR part 575 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828, 2901.

2. Amend § 575.9 by redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

§ 575.9 Charters and bylaws for mutual holding companies and their savings association subsidiaries.

* * * * *

(c) *Optional charter provision following minority stock issuance.* A federal resulting association or federal acquiree association may, during the five years immediately following a minority stock issuance that such association conducts in accordance with the purchase priorities set forth in 12 CFR part 563b, include in its charter the following provision (for purposes of this charter provision, the definitions set forth at § 552.4(b)(8) of this chapter apply):

Beneficial Ownership Limitation. No person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of the outstanding stock of any class of voting stock of the association held by persons other than the association's mutual holding company. This limitation does not apply to a transaction in which an underwriter purchases stock in connection with a public offering, or the purchase of stock by an employee stock ownership plan or other tax-qualified employee stock benefit plan that is exempt from the approval requirements under § 574.3(c)(1)(iv) of the Office's regulations.

In the event a person acquires stock in violation of this section, all stock beneficially owned by such person in excess of 10 percent of the stock held by stockholders other than the mutual holding company shall be considered ''excess shares'' and shall not be counted as stock entitled to vote and shall not be voted by any person or counted as voting stock in connection with any matters submitted to the stockholders for a vote.

* * * * *

3. In § 575.14, redesignate paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5), respectively, and add a new paragraph (c)(3) to read as follows:

§ 575.14 Subsidiary holding companies.

* * * * *

(c) * * *

(3) *Optional charter provision following minority stock issuance.* A subsidiary holding company may, during the five years immediately following a minority stock issuance that such subsidiary holding company conducts in accordance with the purchase priorities set forth in 12 CFR part 563b, include in its charter the provision set forth below (for purposes of this charter provision, the definitions set forth at § 552.4(b)(8) of this chapter apply):

Beneficial Ownership Limitation. No person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10 percent of the outstanding stock of any class of voting stock of the association held by persons other than the subsidiary holding company's mutual holding company parent. This limitation does not apply to a transaction in which an underwriter purchases stock in connection with a public offering, or the purchase of stock by an employee stock ownership plan or other tax-qualified employee stock benefit plan which is exempt from the approval requirements under § 574.3(c)(1)(iv) of the Office's regulations.

In the event a person acquires stock in violation of this section, all stock beneficially owned in excess of 10 percent shall be considered ''excess stock'' and shall not be counted as stock entitled to vote and shall not be voted by any person or counted as voting stock in connection with any matters submitted to the stockholders for a vote.

* * * * *

Dated: May 25, 2007.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. E7–12172 Filed 6–26–07; 8:45 am]

BILLING CODE 6720–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AD37

Purchase, Sale, and Pledge of Eligible Obligations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA proposes to amend its rule governing the purchase, sale, and pledge of eligible obligations, as a result of recommendations from its annual regulatory review process, by adding a conflict of interest provision substantially similar to the conflict of interest provision in NCUA's general lending rule. This addition is intended to help ensure that a federal credit union's (FCU) decisions regarding the purchase, sale, and pledge of eligible obligations are made with the FCU's best interests in mind.

DATES: Comments must be received on or before August 27, 2007.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *E-mail:* Address to *regcomments@ncua.gov.* Include ''[Your

name] Comments on Proposed Rule 701, Eligible Obligations'' in the e-mail subject line.

• *Fax:* (703) 518–6319. Use the subject line described above for e-mail.

• *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

• *Hand Delivery/Courier:* Same as mail address.

Public Inspection: All public comments are available on the agency's website at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an e-mail to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Annette Tapia or Frank Kressman, Staff Attorneys, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

The NCUA continually reviews its regulations to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.'' NCUA Interpretive Rulings and Policy Statement (IRPS) 87–2, Developing and Reviewing Government Regulations. Under IRPS 87–2, NCUA conducts a rolling review of one-third of its regulations each year, involving both internal review and public comment. NCUA's 2006 review produced a recommendation to include a conflict of interest provision in the eligible obligations rule similar to the one in NCUA's general lending rule. 12 CFR 701.21(c)(8), 12 CFR 701.23.

B. Discussion

Generally, the eligible obligations rule implements the statutory provisions limiting the purchase, sale, and pledging of an eligible obligation, which is defined by the Board as a loan or group of loans. 12 U.S.C. 1757(13); 12 CFR 701.23. Subject to certain exceptions, the rule provides that an FCU may purchase its members' eligible obligations (i.e., loans made to a member by another lender) from any source as long as the loans are ones the FCU is empowered to grant, up to an amount equal to 5% of its unimpaired capital and surplus. 12 CFR 701.23(b)(1). Exceptions in the rule include purchasing nonmember student and real estate secured loans for purposes of completing a loan pool for sale on the secondary market. In addition, loans purchased to complete a pool and loans purchased as part of an indirect lending or indirect leasing program are exempt from the 5% limit on eligible obligations.

The Board believes eligible obligation transactions, which involve the buying and selling of member loans, potentially present the same kinds of conflicts of interest as where an FCU is the original lender to its member. For that reason, the Board proposes to add a conflict of interest provision to the eligible obligations rule that is similar to the conflict provision in NCUA's general lending regulation. 12 CFR 701.21(c)(8)(i). The proposal would generally provide that an official, employee, or their immediate family members may not receive, directly or indirectly, any commission, fee or other compensation in connection with an eligible obligations transaction. The proposal would help ensure FCUs make decisions concerning the purchase and sale of eligible obligations based on appropriate business considerations rather than any personal benefit to insiders.

C. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). This rule only includes a conflict of interest provision that entails no greater regulatory burden. Accordingly, this proposed rule will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

NCUA has determined that this rule will not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule 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. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 701

Conflict of interests, Credit unions, Eligible obligations, Loans.

By the National Credit Union Administration Board on June 21, 2007.

Mary Rupp,

Secretary of the Board.

For the reasons discussed above, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.23 is amended by adding new paragraph (g) to read as follows:

§ 701.23 Purchase, sale, and pledge of eligible obligations.

* * * * *

(g) (1) *Conflicts of interest.* No federal credit union official, employee, or their

immediate family member may receive, directly or indirectly, any compensation in connection with that credit union's purchase, sale, or pledge of an eligible obligation under the provisions of § 701.23.

(2) *Permissible payments*. This section does not prohibit:

(i) A federal credit union's payment of salary to employees;

(ii) A federal credit union's payment of an incentive or bonus to an employee based on the credit union's overall financial performance;

(iii) A federal credit union's payment of an incentive or bonus to an employee, other than a senior management employee, in connection with that credit union's purchase, sale or pledge of an eligible obligation. This payment is permissible if the board of directors establishes a written policy and internal controls for the incentive or bonus program and monitors compliance with the policy and controls at least annually; and

(iv) Payment by a person other than the federal credit union of compensation to a volunteer official, non-senior management employee, or their immediate family member, for a service or activity performed outside the credit union provided that the federal credit union, the official, employee, or their immediate family member has not made a referral.

(3) *Business associates and family members*. All transactions under this section with business associates or family members not specifically prohibited by paragraph (g)(1) of this section must be conducted at arm's length and in the interest of the federal credit union.

(4) *Definitions*. The definitions in § 701.21(c)(8)(ii) of this part apply to this section.

[FR Doc. E7–12378 Filed 6–26–07; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–28366; Airspace Docket 07–ASO–11]

Proposed Amendment of Class E Airspace; Mooresville, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Mooresville, NC. Two Copter Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) helicopter point in space approaches have been developed for Lowe's Mooresville Heliport, Mooresville, NC. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs and for Instrument Flight Rules (IFR) operations at Lowe's Mooresville Heliport. This action proposes to amend the Class E5 airspace for Mooresville, NC, to the south in order to include the point in space approaches serving Lowe's Mooresville Heliport.

DATES: Comments must be received on or before July 27, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2007–28366; Airspace Docket 07–ASO–11, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, 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 Docket office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, Airspace and Operations Branch, Eastern En Route and Oceanic Service Area, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2007–28366/Airspace Docket No. 07–ASO–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara/.* Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Mooresville, NC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

ASO NC E5 Mooresville, NC [REVISED]

Lake Norman Airpark, NC
(Lat. 35°36′50″ N, long. 80°53′58″ W)
Lowe's Mooresville Heliport Point In Space Coordinates
(Lat. 35°32′32″ N, long. 80°50′29″ W)
(Lat. 35°32′51″ N, long. 80°52′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-radius of Lake Norman Airpark and that airspace within a 6-mile radius of the points in space (lat. 35°32′32″ N, long. 80°50′29″ W) and (lat. 35°32′51″ N, long. 80°52′02″ W) serving Lowe's Mooresville Heliport, excluding that airspace within the Statesville, NC, Class E airspace area and the Concord, NC, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on June 11, 2007.

Barry A. Knight,

Acting Group Manager, System Support Group, Eastern Service Center.

[FR Doc. 07–3130 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–2393; MB Docket No. 07–1; RM–11356]

Radio Broadcasting Services; Hemet, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Southern California Public Radio, requesting the reservation of vacant Channel 273A at Hemet, California for noncommercial educational use. The reference coordinates are 33–44–44 NL and 116–59–18 WL. The document also requests specific comment on whether a rulemaking proponent may use actual terrain pursuant to Section 73.313 of the Commission's Rules to calculate first and second NCE service benefits in connection with NCE allotment reservation requests.

DATES: Comments must be filed on or before July 30, 2007, and reply comments on or before August 14, 2007.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Todd M. Stansbury, Esq., Counsel for Southern California Public Radio, Wiley Rein & Fielding LLP, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 07–1, adopted June 6, 2007, and released June 8, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160, or *http://www.BCPIWEB.COM.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 273A and adding Channel *273A at Hemet.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–12151 Filed 6–26–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 177

[Docket No. FMCSA–02–11650 (HM–232A)]

RIN 2137–AD70

Security Requirements for Motor Carriers Transporting Hazardous Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM); withdrawal.

SUMMARY: This withdrawal advises the public that the Transportation Security Administration (TSA) of the Department of Homeland Security (DHS) has assumed the lead role from the Pipeline and Hazardous Materials Safety Administration (PHMSA) for rulemaking addressing the security of motor carrier shipments of hazardous materials under this docket. Accordingly, PHMSA is withdrawing the ANPRM issued under this docket and closing its rulemaking proceeding. This action is consistent with and supportive of the respective transportation security roles and responsibilities of the Department of Transportation and DHS as delineated in a Memorandum of Understanding (MOU) signed September 28, 2004, and of TSA and PHMSA as outlined in an Annex to that MOU signed August 7, 2006. PHMSA will continue to consider alternatives for enhancing the safety of explosives stored during transportation under another rulemaking docket. PHMSA will consult and coordinate with TSA on hazardous materials transportation security issues in accordance with the PHMSA–TSA Annex.

DATES: The ANPRM published at 67 FR 46622, July 16, 2002, is withdrawn as of June 27, 2007.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky or Ben Supko, Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

A. Joint PHMSA–FMCSA ANPRM

On July 16, 2002 (67 FR 46622), the Research and Special Programs Administration (predecessor to the Pipeline and Hazardous Materials Safety Administration (PHMSA)) and the Federal Motor Carrier Safety Administration (FMCSA) jointly published an advance notice of proposed rulemaking (ANPRM) seeking comments on the feasibility, costs, and benefits of requiring motor carriers that transport hazardous materials to employ certain enhanced security measures. Specific measures discussed in the ANPRM included escorts, vehicle tracking and monitoring systems, emergency warning systems, remote ignition shut-offs, direct short-range communications, notification to state and local authorities, and safe havens for the temporary storage of explosives during transportation. We received over 80 sets of comments in response to the ANPRM. Commenters encouraged DOT to apply enhanced security measures only to those materials presenting a significant security risk and expressed various views on the merits of particular security measures, as summarized in the following section. As a result of PHMSA's expanded authority to regulate hazardous materials transportation security, granted to PHMSA under section 1711 of the Homeland Security Act, FMCSA issued a notice on March 19, 2003 (68 FR 13250) that transferred any future action on Docket HM–232A to PHMSA.

B. Summary of Comments on Issues Discussed in ANPRM

Escorts. Most commenters oppose armed escorts, whether on the vehicle itself or accompanying the vehicle. Many commenters suggest armed escorts could actually increase the vulnerability of a shipment by drawing attention to the vehicle and because of the increased number of stops a support vehicle would be required to make. Most commenters also express concern that the use of escorts would be cost prohibitive and could result in carriers refusing shipments for which escorts would be required. Commenters also expressed concern about logistical problems and higher insurance premiums (related to liability issues associated with armed escorts). Finally, commenters suggest ''mixing'' firearms and hazardous materials in transportation could increase safety problems because firearms are a potential source of ignition for explosives and certain other types of hazardous materials.

Pre-notification. Most commenters oppose pre-notification of state and/or local governments of planned shipments of hazardous materials. Commenters suggest a pre-notification requirement would overload emergency responders with information and likely detract from their ability to respond promptly and efficiently to an incident or accident. Commenters note it is unlikely emergency response organizations have the personnel or resources necessary to manage the volume of information that would be received. Commenters also express concern that a pre-notification requirement could actually compromise security by making shipment information more widely available than would otherwise be the case. Shippers and carriers would be required to provide load-specific information (e.g., product name and hazard, routing, timing), which would then be disseminated to a variety of individuals and organizations. The opportunity for disclosure, whether deliberate or inadvertent, would be high. Commenters note volunteer emergency response organizations conduct virtually no security background checks. Finally, commenters outline a number of operational concerns, including handling road detours and route changes, related to increasing transportation times and adverse affects on supply chains for a host of industries that rely on ''just-in-time'' deliveries to manage inventories.

Safe Havens. A ''safe haven'' is an area specifically approved in writing by Federal, state, or local government authorities for the parking of unattended vehicles containing Division 1.1, 1.2, and 1.3 explosive materials (49 CFR 397.5(d)(3)). The competent local authority having jurisdiction over the area generally makes the decision as to what constitutes a safe haven. There are no Federal standards for safe havens. Commenters support the continued use of safe havens, but recommend DOT develop Federal standards to provide details on the construction, maintenance, availability, and use of safe havens. Without clearly defined standards to follow, commenters state any future reliance on safe havens may actually make the hazardous materials stored there more susceptible to safety and security threats than if they were stored at other locations.

Due to the complexity of the safe haven issue and commenter response, PHMSA and FMCSA decided to split the safe havens issue from the other enhanced security measures proposed in the ANPRM by placing it in a separate docket (HM–238). On November 16, 2005, PHMSA published an ANPRM (70 FR 69493) to solicit additional comments on the safety and security issues associated with the storage of explosives during transportation and the need for additional regulatory requirements. The ANPRM includes summaries of current

government and industry standards applicable to such storage. We are currently evaluating the comments received in response to this ANRPM to determine whether additional rulemaking is warranted.

Vehicle tracking and monitoring systems, emergency warning systems, remote shut-offs, and direct short range communications. In December 2004, FMCSA completed a two-year national field operational test of existing technologies that could offer solutions to enhance the security of motor carrier shipments of hazardous materials. The test evaluated the costs, benefits, and operational processes required for wireless communications systems, including GPS tracking and digital telephones; in-vehicle technologies, such as on-board computers, panic buttons, and electronic cargo seals; personal identification systems, including biometrics and a user name/password system; and vehicle tracking, including geofencing and trailer tracking systems. The tested technologies performed well under operational conditions and showed promise for significantly reducing security vulnerabilities.

II. DOT/PHMSA and DHS/TSA Transportation Security Responsibilities

The Federal hazardous materials transportation law (Federal hazmat law, 49 U.S.C. 5101 et seq., as amended by § 1711 of the Homeland Security Act of 2002, Pub. L. 107–296 and Title VII of the 2005 Safe, Accountable, Flexible and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU)) authorizes the Secretary of the Department of Transportation to ''prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.'' The Secretary has delegated this authority to PHMSA. The Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) promulgated by PHMSA under the mandate in section 5103(b), govern safety aspects, including security, of the transportation of hazardous materials.

Under the Aviation and Transportation Security Act (ATSA), Public Law 107–71, 115 Stat. 597 (November 19, 2001), and delegated authority from the Secretary of Homeland Security (DHS), the Assistant Secretary of DHS for TSA has broad responsibility and authority for ''security in all modes of transportation'' (49 U.S.C. 114(d)).'' ATSA authorizes TSA to take immediate action to protect against threats to transportation security.

TSA's authority over the security of transportation stems from several provisions of 49 U.S.C. 114. In executing its responsibilities and duties, TSA is specifically empowered to develop policies, strategies and plans for dealing with threats to transportation (49 U.S.C. 114(f)(3)). As part of its security mission, TSA is responsible for assessing intelligence and other information in order to identify individuals who pose a threat to transportation security and to coordinate countermeasures with other Federal agencies to address such threats (49 U.S.C. 114(f)(1)–(5), (h)(1)–(4)). TSA is also mandated to enforce security-related regulations and requirements (49 U.S.C. 114(f)(7)); ensure the adequacy of security measures for the transportation of cargo (49 U.S.C. 114(f)(10)); oversee the implementation and ensure the adequacy of security measures at transportation facilities (49 U.S.C. 114(f)(11)); and carry out other appropriate duties relating to transportation security (49 U.S.C. 114(f)(15)). TSA serves as the primary liaison for transportation security to the intelligence and law enforcement communities (49 U.S.C. 114(f)(1) and (5)).

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

As is evident from the above discussion, DHS and DOT share responsibility for hazardous materials transportation security. The two departments consult and coordinate on security-related hazardous materials transportation requirements to ensure they are consistent with the overall security policy goals and objectives established by DHS and that the regulated industry is not confronted with inconsistent security guidance or requirements promulgated by multiple agencies. On September 28, 2004, DOT and DHS signed a Memorandum of Understanding (MOU) on Roles and Responsibilities. The purpose of the MOU is to facilitate the development and deployment of transportation security measures that promote safety, security, and efficiency in the movement of people and goods. The MOU recognizes that DHS has primary responsibility for security in all modes of transportation. In this regard, DHS will establish national security performance goals, and, to the extent practicable, develop appropriate transportation security measures to achieve an integrated national transportation security system.

On August 7, 2006, PHMSA and TSA signed an annex to the September 28, 2004 DOT–DHS MOU. The Annex acknowledges TSA's lead role in transportation security and that each agency brings core competencies, legal authority, resources, and expertise to their shared mission. The Annex reflects the agencies' commitment to a system risk-based approach and to the development of practical solutions through work teams focused on key program elements, including research and development and the review and development of security standards. In entering into the Annex, PHMSA and TSA pledged to build on and not duplicate the various security initiatives and efforts already underway.

III. TSA Hazardous Materials Truck Security Pilot

In August 2005, TSA initiated the ''TSA Hazardous Materials Truck Security Pilot.'' This congressionally mandated pilot program is designed to test the functionality and capabilities of a centralized truck tracking system. The pilot utilizes specific protocols capable of interfacing with existing truck tracking systems, government intelligence centers, and first responders. The goal is to provide TSA with a tested and established truck tracking center that will allow TSA to ''continually'' track truck locations and specific hazardous materials load types in all 50 states. The tracking system will also allow for automatic or manual notification of exception based events. The TSA Hazardous Materials Truck Security Pilot including the prototype Truck Tracking Center is currently scheduled to operate through Fiscal Year 2007.

IV. Withdrawal of PHMSA–FMCSA ANRPM

Based on comments to the ANPRM and the results of the FMCSA Field Operational Test, two of the security measures addressed in the ANPRM—use of vehicle tracking and communications systems and anti-theft technologies—appear promising as means of enhancing the security of motor carrier transportation of certain classes and quantities of hazardous materials. In accordance with the DHS–DOT MOU and the PHMSA–TSA Annex, however, PHMSA, FMCSA, and TSA have determined action to address

motor carrier security tracking should not be taken prior to the completion of TSA's pilot, and, in any event, be carried out under TSA's legal authority, rather than primarily as an amendment to the HMR. By contrast, the proposals to require use of escorts or a pre-notification system do not appear worthy of further consideration. As mentioned above, PHMSA will continue to address safe havens and other issues related to the storage of explosives during transportation in Docket HM–238. In the meantime, PHMSA will consult and coordinate with TSA on hazardous materials transportation security issues in accordance with the PHMSA–TSA Annex.

Accordingly, PHMSA is withdrawing the July 16, 2002 ANPRM and terminating this rulemaking proceeding.

Issued in Washington, DC, on June 1, 2007, under authority delegated in 49 CFR Part 1.

Theodore L. Willke,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. E7–12404 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070611120–7120–01; I.D. 032607A]

RIN 0648–AU77

Fisheries Off West Coast States; Highly Migratory Species Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement daily bag limits for sport-caught albacore tuna (*Thunnus alalunga*) and bluefin tuna (*Thunnus orientalis*) in the Exclusive Economic Zone (EEZ) off California under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). This proposed rule would be implemented as a conservation measure as part of the 2007–2009 biennial management cycle as established in the HMS FMP Framework provisions for changes to routine management measures.

DATES: Comments must be received by July 27, 2007.

ADDRESSES: You may submit comments on this notice, identified by I.D. 032607A, by any of the following methods:

- E-mail: *0648–AU77.SWR@noaa.gov*. Include the I.D. number in the subject line of the message.
- Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.
- Fax: (562) 980–4047.

FOR FURTHER INFORMATION CONTACT: Craig Heberer, Sustainable Fisheries Division, NMFS, 760–431–9440, ext. 303.

SUPPLEMENTARY INFORMATION: On April 7, 2004, NMFS published a final rule to implement the HMS FMP (69 FR 18444) that included annual specification guidelines at 50 CFR 660.709. These guidelines establish a process for the Pacific Fishery Management Council (Council) to take final action at its regularly-scheduled November meeting on any necessary harvest guideline, quota, or other management measure and recommend any such action to NMFS. At their November 12–17, 2006, meeting, the Council adopted a recommendation to establish daily bag limits for sport caught albacore and bluefin tuna harvested in the EEZ off of California as a routine management measure for the 2007–2009 biennial management cycle. NMFS is initiating rulemaking for this action pursuant to procedures established at 50 CFR 660.709(a)(4) of the implementing regulations for the HMS FMP.

This proposed rule would establish a daily bag limit of 10 albacore tuna harvested in the U.S. EEZ south of Point Conception (34° 27′ N. latitude) to the U.S.-Mexico border and a daily bag limit of 25 albacore tuna harvested in the U.S. EEZ north of Point Conception to the California-Oregon border. This proposed rule would also establish a daily bag limit of 10 bluefin tuna in the U.S. EEZ off the entire California coast. The two bag limits for albacore tuna are intended to accommodate differences in fishing opportunity in the two regions south and north of Point Conception. The 25 fish albacore tuna bag limit north of Point Conception is consistent with the current albacore tuna bag limit established by the State of Oregon for recreational fisheries in its waters and recognizes the more frequent weather-related loss of fishing opportunity in these waters compared to waters south of Pt. Conception.

California State regulations allow, by special permit, the retention of up to three daily bag limits for a trip occurring over multiple, consecutive days. California State regulations also allow for two or more persons angling for finfish aboard a vessel in ocean waters off California to continue fishing until boat limits are reached. NMFS and the Council would consider these additional state restrictions to be consistent with Federal regulations implementing the HMS FMP, including this proposed rule if implemented. If approved, this regulation will stay in effect until such time as the Council and/or NMFS proposes further modifications as part of the HMS FMP biennial management cycle process. The State of California has informed NMFS that it intends to implement companion regulations to impose daily albacore and bluefin bag limits applicable to recreational angling and possession of fish in state waters (0–3 nm).

Classification

NMFS has determined that the proposed rule is consistent with the HMS FMP and preliminarily determined that this proposed rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

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.

Approximately 165 HMS recreational charter vessels based in California were permitted under the HMS FMP to operate in the HMS recreational fishery off the U.S. West Coast in 2006. The California HMS recreational charter vessels are considered small business entities. The HMS recreational charter fleet based in Oregon does not fish off the coast of California and would therefore not be impacted by this proposed rule. A review of historic recreational fisheries data in ocean waters adjacent to California by recreational anglers, in all marine areas, and all boat-based fishing modes from 1997 through 2005 shows that approximately 98 percent of sampled catches that contained albacore landed less than 10 fish per day. For the 2 percent of trips that would be impacted by this proposed rule, the estimated economic impact equates to a potential expenditure loss of 0.08 percent to 1.0 percent. The data for bluefin tuna catches shows that 100 percent of the 1997 through 2005 sampled catches that landed bluefin contained less than six fish per day therefore potential expenditure loss under this proposed rule would be zero. In addition, the

proposed imposition of a daily bag limit for these species would not constrain continued catch-and-release angling should the bag limits be reached further mitigating the potential economic impacts this proposed rule would have on recreational fishermen and small business entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 21, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF THE WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

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

2. A new paragraph (qq) is added to § 660.705 to read as follows:

§ 660.705 Prohibitions.

* * * * *

(qq) Take and retain, possess on board, or land, fish in excess of any bag limit specified in § 660.721.

3. Subpart K is amended by adding a new § 660.721 to read as follows:

§ 660.721 Recreational fishing bag limits.

(a) *General.* This section applies to recreational fishing for HMS management unit species in the U.S. EEZ off the coast of California, Oregon, and Washington and in the adjacent high seas areas. In addition to individual fishermen, the operator of a vessel that fishes in the EEZ is responsible for ensuring that the bag limits of this section are not exceeded. The bag limits of this section apply on the basis of each 24–hour period at sea, regardless of the number of trips per day. The provisions of this section do not authorize any person to take more than one daily bag limit of fishing during one calendar day. Federal recreational HMS regulations are not intended to supersede any more restrictive state recreational HMS regulations relating to federally-managed HMS. The bag limits include fish taken in both state and Federal waters.

(1) *Albacore Tuna Daily Bag Limit.* A recreational fisherman may take or retain no more than:

(i) Ten albacore tuna per day in the U.S. EEZ south of a line running due west true from 34° 27′ N. latitude (at Point Conception, Santa Barbara County) to the U.S.-Mexico border.

(ii) Twenty-five albacore tuna per day in waters north of a line running due west true from 34° 27′ N. latitude (at Point Conception, Santa Barbara County) to the California-Oregon border.

(2) *Bluefin Tuna Daily Bag Limit.* A recreational fisherman may take or retain no more than 10 bluefin tuna per day in the U.S. EEZ off the coast of California.

(3) *Possession Limits.* If the State of California requires a multi-day possession permit for albacore or bluefin tuna harvested by a recreational fishing vessel and landed in California, such restrictions would be deemed consistent with Federal law.

(4) *Boat Limits.* Off the coast of California, boat limits apply, whereby each fisherman aboard a vessel may continue to use recreational angling gear until the combined daily limits of HMS for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply). Unless otherwise prohibited, when two or more persons are angling for HMS species aboard a vessel in the EEZ, fishing may continue until boat limits are reached.

[FR Doc. E7–12430 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 123
Wednesday, June 27, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 21, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Volunteer Application for Natural Resource Agencies.

OMB Control Number: 0596–0080.

Summary of Collection: The Volunteer Act of 1972, (Pub. L. 92–300) as amended, authorizes Federal land management agencies to use volunteers and volunteer organizations to plan, develop, maintain and manage, where appropriate, trails and campground facilities, improve wildlife habitat, and perform other useful and important conservation services throughout the Nation. Agencies will collect information using the OF 301—Volunteer Application and other forms.

Need and Use of the Information: Agencies will collect the names, addresses, and certain information about individuals who are interested in public service as volunteers. The information is used by the agencies for the purpose of contacting applicants and interviewing and screening them for volunteer positions and to manage the program. If the information is not collected, participating natural resource agencies will be unable to recruit and/or screen volunteer applicants or administer/run volunteer programs that are crucial to assisting these agencies in fulfilling their missions.

Description of Respondents: Individuals or households.

Number of Respondents: 400,000.

Frequency of Responses: Reporting: Other (one time).

Total Burden Hours: 500,000.

Forest Service

Title: Predecisional Objection Process for Hazardous Fuel Reduction Projects Authorized by the Healthy Forest Restoration Act of 2003.

OMB Control Number: 0596–0172.

Summary of Collection: On December 3, 2003, President Bush signed into law the Healthy Forests Restoration Act of 2003 to reduce the threat of destructive wildfires while upholding environmental standards and encouraging early public input during review and planning processes. One of the provisions of the Act, in Section 105 requires that not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process. This process services as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service (FS) land.

Need and Use of the Information: Participants in the predecisional administrative review process must provide information the FS needs to respond to their concern. This written information needs to include the objector's name, address, phone number; the name of the project; name and title of the Responsible Official, the project location; and sufficient narrative description of those parts of the project that are objected to; specific issues related to the proposed decision, and suggested remedies which would resolve the objection. The collected information will be used by the Reviewing Officer in responding to those who participate in the objection process prior to a decision by the Responsible Official. FS could not meet the intent of Congress without collecting this information.

Description of Respondents: Individuals or households; State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 121.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 968.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–12385 Filed 6–26–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0027]

ArborGen, LLC; Availability of an Environmental Assessment and Finding of No Significant Impact for a 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. After assessing the application, reviewing pertinent scientific information, and considering comments provided by the public, we have concluded that this field release will not present a plant pest risk, nor will it have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared for this field release.

DATES: *Effective Date:* June 28, 2007.

ADDRESSES: You may read the environmental assessment (EA), finding of no significant impact (FONSI), and any comments we received on the EA in our reading room, which 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, FONSI and decision notice, and responses to comments are available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/06_325111r_ea.pdf.*

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 EA, FONSI, and response to comments, 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.

On April 20, 2007, APHIS published a notice [1] in the **Federal Register** (72 FR 19876–19877, Docket No. APHIS 2007–0027) announcing the availability of an environmental assessment (EA) for a controlled release of genetically engineered *Eucalyptus* hybrids. During the 30-day comment period, which ended May 21, 2007, APHIS received 270 comments. There were 153 comments supporting APHIS granting permit 06–325–111r, the majority of which were nearly identical form letters. Respondents supporting the approval of the permit were foresters, paper and packaging companies, or from related industries, academia, agricultural biotech companies, and individuals. There were 67 respondents who submitted 102 comments opposed to APHIS granting the permit. One opposing comment came in the form of a petition bearing 5,495 signatories. Respondents opposing APHIS granting this permit were primarily from 13 public interest groups; other respondents included academia and individuals. APHIS has addressed the issues raised during the comment period and has provided responses to these comments as an attachment to the finding of no significant impact (FONSI).

Pursuant to the regulations promulgated under the Plant Protection Act, APHIS has determined that this field release will not pose a risk of introducing or disseminating a plant pest. Additionally, based upon analysis described in the EA, APHIS has determined that the action proposed in Alternative C of the EA, issue the permit with supplemental permit conditions, will not have a significant impact on the quality of the human environment. You may read the FONSI and decision notice on the Internet or in the APHIS reading room (see **ADDRESSES** above). Copies may also be obtained from the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

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 EA and FONSI have been prepared. The EA and FONSI were 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).

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 25th day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–12532 Filed 6–26–07; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice and the comments we received go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2007–0027, then click ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0020]

Resident Canada Goose Management; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's Record of Decision

for the Resident Canada Goose Management Final Environmental Impact Statement.

ADDRESSES: Copies of the Record of Decision and the Final Environmental Impact Statement on which the Record of Decision is based are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 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 Record of Decision may be viewed on the Wildlife Services Web site at *http://www.aphis.usda.gov/regulations/ws/ws_nepa_environmental_documents.shtml*. The final environmental impact statement may also be viewed on the Internet at *http://www.fws.gov/migratorybirds/issues/cangeese/finaleis.htm.*

Copies of the Record of Decision and the Final Environmental Impact Statement may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. David S. Reinhold, National Environmental Manager, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1235; (301) 734–7921.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Animal and Plant Health Inspection Service (APHIS) has prepared a Record of Decision based on the Resident Canada Goose Final Environmental Impact Statement (EIS) prepared by the U.S. Fish and Wildlife Service (USFWS). APHIS was a cooperating agency in the preparation of the EIS. The USFWS published the notice of availability for the final EIS in the **Federal Register** on November 18, 2005 (70 FR 69985) and published its Record of Decision and Final Rule on August 10, 2006 (71 FR 45964). APHIS has independently reviewed the EIS and has concluded its comments and suggestions have been satisfied. APHIS has now prepared a Record of Decision on the adopted EIS and is making it available to the public. This record of decision has been 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 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 21st day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–12447 Filed 6–26–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Warehouse Operators Approved Under Commodity Credit Corporation Storage Agreements—CCC Policy on Making Payments and Interest on Delayed Payments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) pays warehouse operators approved under the Uniform Grain and Rice Storage Agreement, Peanut Storage Agreement, Cotton Storage Agreement and the Sugar Storage Agreement storage, handling, and other associated costs for commodities forfeited to CCC. Payments made by CCC are subject to the Prompt Payment Act of 1982, as amended; the Debt Collection Improvement Act of 1996; and the Federal Acquisition Regulations. To be fully compliant with these regulations, effective June 30, 2007, warehouse operators will be required to certify CCC payment invoices before the release of payment funds by CCC.

DATES: *Effective Date:* June 30, 2007.

FOR FURTHER INFORMATION CONTACT: Howard Froehlich, Chief, Program Development Branch, Warehouse and Inventory Division, Farm Service Agency, USDA, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553. Telephone: (202) 720–2121. E-mail: *Howard.Froehlich@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: CCC acquires title to agricultural commodities in the administration of its programs under various circumstances. For instance, under Title I of the Farm Security and Rural Investment Act of 2002, CCC makes marketing assistance loans to producers that can lead to forfeiture of the commodities to CCC. To provide for the storage of various commodities it acquires, CCC enters into storage agreements with private warehouse operators. Section 5 of the CCC Charter Act (7 U.S.C. 714c) requires that in purchasing, selling, warehousing, transporting, or handling agricultural commodities, CCC is to use, to the maximum extent practicable, the usual and customary channels, facilities, and arrangements of trade and commerce. In contracting for warehouse services, CCC must be compliant with the Prompt Payment Act of 1982, as amended; the Debt Collection Improvement Act of 1996; and the Federal Acquisition Regulations. To be fully compliant with these regulations, effective June 30, 2007, warehouse operators will be required to certify CCC payment invoices before the release of payment funds by CCC.

CCC periodically prepares and issues invoices and payments for accrued storage and handling charges for warehouse-stored CCC-owned commodities recorded into CCC's inventory or forfeited to CCC through warehouse operators operating under the terms and conditions of a CCC Storage Agreement. This Notice announces a change in the method used by warehouse operators for invoice certification and in the timing of payments made by CCC. All invoices must be reviewed and certified by the warehouse operator before payments can be made. Endorsement of the certification of the invoice represents the warehouse operator's verification that the charges represented by the invoice and disbursement are due and owing. Criminal and civil penalties may be assessed for false certification. Periodic invoices will continue to be prepared by CCC; however, payments will now be made only after review, correction, and certification by the warehouse operator.

Currently, quarterly invoices are prepared representing storage and handling charges for warehouse-stored CCC-owned grain, cotton, and peanut stocks already recorded into CCC's inventory or forfeited to CCC during the quarterly period. When issuing quarterly periodic invoices, CCC will provide warehouse operators access to the quarterly periodic invoice through a secure Web site for review and electronic certification of the invoice(s). Warehouse operators will receive an e-mail notification when invoices are available for review and grain. Grain and peanut warehouse operators can go to the ED3 website: *http://pcsd.usda.gov:3076/finance/* to review and certify the invoices for accuracy. Cotton warehouse operators can go to the Cotton Online Processing System

(COPS) website: *http://www.fsa.usda.gov/cotton.* If the warehouse operator believes the amount owed by CCC in the invoice is incorrect, the warehouse operator may note the discrepancies in the fields provided on the invoice.

Monthly invoices, including grain and peanut loan forfeiture and loading order invoices and sugar loan forfeiture and storage invoices, are prepared as hard copy documents and are mailed to warehouse operators for certification. If the warehouse operator believes the amount owed by CCC in the invoice is incorrect, the warehouse operator may note the discrepancies on the invoice. Signed invoices must be returned to CCC before payment may be made.

The Prompt Payment Act of 1982 provides that when payment is not made within 30 calendar days following the receipt of certified invoice from the warehouse operator, interest will be paid, per the terms of the Prompt Payment Act, from the 31st calendar day following receipt of the invoice through the date payment is made. CCC will continue to make payments via Automated Clearing House (ACH) Electronic Fund Transfers (EFT).

Signed at Washington, DC, June 14, 2007.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E7–12442 Filed 6–26–07; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Natural Resource Damage Assessment Restoration Project Information Sheet.

Form Number(s): None.

OMB Approval Number: 0648–0497.

Type of Request: Regular submission.

Burden Hours: 55.

Number of Respondents: 33.

Average Hours per Response: 20 minutes.

Needs and Uses: The Natural Resource Damage Assessment (NRDA) Restoration Project Information Sheet is designed to facilitate the collection of information on existing, planned, or proposed restoration projects. This information will be used by the Natural Resource Trustees to develop potential restoration alternatives for natural resource injuries and service losses requiring restoration during the restoration planning phase of the NRDA process.

Affected Public: State, Local or Tribal Government.

Frequency: Annually and on occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 21, 2007

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–12380 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration (ITA).

Title: Information for Self-Certification under FAQ 6 of the United States-European Union Safe Harbor Privacy Framework.

Agency Form Number: None.

OMB Number: 0625–0239.

Type of Request: Regular submission.

Burden Hours: 350.

Number of Respondents: 500.

Average Hours Per Response: 20–40 minutes.

Needs and Uses: In response to the European Union Directive on Data Protection that restricts transfers of personal information from Europe to countries whose privacy practices are not deemed ''adequate,'' the U.S. Department of Commerce has developed a ''Safe Harbor'' framework that will allow U.S. organizations to satisfy the European Directive's requirements and ensure that personal data flows to the United States are not interrupted. In this process, the Department of Commerce repeatedly consults with U.S. organizations affected by the European Directive and interested non-government organizations. The Safe Harbor framework bridges the differences between the European Union (EU) and U.S. approaches to privacy protection. The complete set of Safe Harbor documents and additional guidance materials may be found at *http://export.gov/safeharbor.*

The Department of Commerce created a list for U.S. organizations to sign up to the Safe Harbor and provides guidance on the mechanics of signing up to this list. As of January 31, 2007, 1,100 U.S. organizations have been placed on the Safe Harbor List, located at *http://export.gov/safeharbor.* Organizations that have signed up to this list are deemed ''adequate'' under the Directive and do not have to provide further documentation to European officials. This list will be used by EU organizations to determine whether further information and contracts will be needed for a U.S. organization to receive personally identifiable information. Personally identifiable information is defined as any that can be identified to a specific person, for example an employee's name and extension would be considered personally identifiable information. All 27 member countries are bound by the European Commission's finding of ''adequacy.'' The Safe Harbor also eliminates the need for prior approval to begin data transfers, or makes approval from the appropriate EU member countries automatic.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligations: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by writing Diana Hynek, Departmental Paperwork, Clearance Officer, Department of Commerce, Room 6625, 14th & Constitution Avenue, NW., Washington, DC 20230 or via the Internet at *dHynek@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of the publication of this notice to David Rostker, OMB Desk Officer at *David_Rostker@omb.eop.gov*

or fax (202) 395–7285 in the **Federal Register**.

Dated: June 21, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–12383 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Income and Program Participation (SIPP) Wave 1 of the 2008 Panel

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, 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 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)).

DATES: To ensure consideration, written comments must be submitted on or before August 27, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Forms Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Patrick J. Benton, Census Bureau, Room HQ–6H045, Washington, DC 20233–8400, (301) 763–4618.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts the SIPP which is a household-based survey designed as a continuous series of national panels. New panels are introduced every few years with each panel usually having a duration of one to four years. Respondents are interviewed at 4-month intervals or ''waves'' over the life of the panel. The survey is molded around a central ''core'' of labor force and income questions that remain fixed throughout the life of the panel. The core is supplemented with questions designed to address specific needs, such as obtaining information on household members participation in government programs as well as prior labor force patterns of household members. These supplemental questions are included with the core and are referred to as ''topical modules.''

The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single, unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic-policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided this data on a continuing basis since 1983 permitting levels of economic well-being and changes in these levels to be measured over time.

Depending on the outcome of current Census budget negotiations, the 2008 panel is currently scheduled for 3 years and will include 9 waves of interviewing beginning February 2008. Approximately 32,650 to 65,300 households will be selected for the 2008 panel, of which, 22,500 to 45,000 households are expected to be interviewed. It is estimated that each household will contain 2.1 people, yielding 47,250 to 94,500 person-level interviews in Wave 1 and subsequent waves (totaling 47,250 to 94,500 burden hours). Two waves of interviewing will occur in the 2008 SIPP Panel during FY 2008.

The topical modules for the 2008 Panel Wave 1 collect information about:

- Recipiency History.
- Employment History.

Wave 1 interviews will be conducted from February 2008 through May 2008.

A 10-minute reinterview of 1,550 to 3,100 people is conducted at each wave to ensure accuracy of responses. Reinterviews would require an additional 518 to 1,035 burden hours in FY 2008.

II. Method of Collection

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years with each panel having durations of 1 to 4 years. All household members 15 years old or over are interviewed using regular proxy-respondent rules. During the 2008 panel, respondents are interviewed a total of 9 times (9 waves) at 4-month intervals making the SIPP a longitudinal survey. Sample people (all household members present at the time of the first interview) who move within the country and reasonably close to a SIPP primary sampling unit will be followed and interviewed at their new address. Individuals 15 years old or over who enter the household after Wave 1 will be interviewed; however, if these individuals move, they are not followed unless they happen to move along with a Wave 1 sample individual.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households.
Estimated Number of Respondents: 47,250–94,500 people per wave.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 47,768–95,535.
Estimated Total Annual Cost: $0.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for the Office of Management and Budget approval of this information collection. They also will become a matter of public record.

Dated: June 21, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–12381 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and

Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2008 Census Dress Rehearsal.

Form Number(s): DX–1, DX–1(UL), DX–1(E/S), DX–1(C), DX–10, DX–10(S), DX–10(C), DX–15, DX–20, DX–20(S), DX–21.

Agency Approval Number: 0607–0919.

Type of Request: Reinstatement, with change, of an expired collection.

Burden Hours: 101,501.

Number of Respondents: 624,502.

Average Hours Per Response: 10 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to collect data from the public as part of the 2008 Census Dress Rehearsal.

The 2008 Census Dress Rehearsal is the final opportunity for the Census Bureau to preview the operational design of the 2010 Census.

Census 2000 was an operational and data quality success. However, that success was achieved at great operational risk and great expense. In response to the lessons learned from Census 2000, and in striving to better meet our Nation's ever-expanding needs for social, demographic, and geographic information, the U.S. Department of Commerce and the Census Bureau have developed a multi-year effort to completely modernize and re-engineer the 2010 Census of Population and Housing. This effort required an iterative series of tests in 2003, 2004, 2005 and in 2006, that provided an opportunity to evaluate new or improved question wording and questionnaire design, methodologies, and use of technology.

The 2003 Census Test was conducted, and designed to evaluate alternative self-response options and alternative presentation of the race and Hispanic origin question; the 2004 Census Test, which studied new methods to improve coverage, including procedures for reducing duplication, and tested respondent reaction to revised race and Hispanic origin questions, examples, and instructions; the 2005 National Census Test, designed to evaluate variations of questionnaire content and methodology; and the 2006 Census Test, which relied on the results of the 2004 Census Test to expand on the number of new and refined methods. The 2008 Census Dress Rehearsal is the final step in the decennial cycle of research and development leading up to the implementation of the 2010 Census.

The 2008 Census Dress Rehearsal will integrate the various operations and procedures planned for the 2010 Census under as close to census-like conditions as possible. The results of this undertaking will be applied to the final plans for the 2010 Census operations where feasible.

The 2008 Census Dress Rehearsal will be conducted in two sites, one urban, and the other one, a mix of urban and suburban. San Joaquin County, California is the urban site. South Central North Carolina has been selected as the urban/suburban mix test site. This area consists of Fayetteville and nine counties surrounding Fayetteville (Chatham, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond and Scotland). The combination of a large urban site and a small city-suburban-rural site provides a comprehensive environment for demonstrating the planned 2010 Census methodology. These two sites, comprising of approximately 480,000 housing units, reflect characteristics that provide a good operational proof of concept of the planned 2010 Census operations, procedures, methods, and systems. Each site will have a Regional Office, which will guide and support the work of the temporary Local Census Offices in their jurisdiction.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 141 and 193.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail *bharrisk@omb.eop.gov*).

Dated: June 21, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–12382 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–807]

Certain Hot–Rolled Carbon Steel Flat Products from the Netherlands; Final Results of the Sunset Review of Antidumping Duty Order and Revocation of the Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 16, 2007, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the antidumping duty order on certain hot–rolled carbon steel flat products from the Netherlands pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). Since the publication of the preliminary results, the order has been revoked. Consequently, in the absence of an order currently in force, the Department cannot make a finding that revocation of the antidumping duty order would likely lead to the continuation or recurrence of dumping.

EFFECTIVE DATE: June 27, 2007.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW. Washington, DC, 20230; telephone: 202–482–1131 and 202–482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping dumping duty order in the **Federal Register** on November 29, 2001. See Antidumping Duty Order: Certain Hot–Rolled Carbon Steel Flat Products From the Netherlands, 66 FR 59565 (November 29, 2001). On February 16, 2007, the Department published a notice of preliminary results of the full sunset review of the antidumping duty order on certain hot–rolled carbon steel flat products from the Netherlands pursuant to section 751(c) of the Act. *See Certain Hot–Rolled Carbon Steel Flat Products from the Netherlands; Preliminary Results of the Sunset Review of Antidumping Duty Order*, 72 FR 7604 (February 16, 2007) (''Preliminary Results''). We provided interested parties an opportunity to comment on our preliminary results. The Department received a case brief from Corus Staal BV (''Corus Staal'') on April 16, 2007, and rebuttal briefs from United States

Steel Corporation, Mittal Steel USA Inc., and Nucor Corporation on April 27, 2007. A hearing was not held because none was requested.

Scope of the Order

For purposes of this order, the products covered are certain hot–rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of the order. Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial–free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro–alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such silicon and aluminum.

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: i) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, e.g., ASTM specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron and Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico–manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion–resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled flat–rolled carbon steel flat products covered by this order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are referenced in the ''Issues and Decision Memorandum for the Sunset Review of the Antidumping Duty Order on Certain Hot–Rolled Carbon Steel Flat Products from the Netherlands; Final Results,'' to David M. Spooner, Assistant Secretary for Import Administration, dated June 20, 2007 (''Decision Memorandum''), which is hereby adopted by this notice. A list of the issues which parties have raised, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find this memorandum on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly via the Internet at www.ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

Section 751(d)(2) of the Act requires the Department in a sunset review to ''revoke...an antidumping duty order or finding,...unless...{it} makes a determination that dumping...would be likely to continue or recur....'' Thus, the finding of likelihood is contingent upon an analysis of what would happen if an order is revoked. This presumes the existence of an antidumping duty order currently in force, which is manifestly not the case here. Consequently, in the absence of an order currently in force, the Department cannot make a finding that it is likely that dumping will continue or recur if the order is revoked. Consistent with 19 CFR 351.222(i)(2)(i), this revocation will be effective November 29, 2006, the fifth anniversary of the date of publication of the order.

We will notify the U.S. International Trade Commission (''ITC'') of our final results. We do not intend, however, to report a rate to the ITC as the Department did not determine that revocation of the order would likely

lead to continuation or recurrence of dumping.

The Department will instruct U.S. Customs and Border Protection to liquidate without regard to dumping duties entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after November 29, 2006 (the effective date of this revocation), and to discontinue collection of cash deposits of antidumping duties for entries of subject merchandise entered or withdrawn from warehouse for consumption on or after November 29, 2006.

This notice serves as a final reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary material disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This sunset review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: June 20, 2007.

David M. Spooner,

Assistant Secretaryfor Import Administration.

Appendix - Issues in Decision Memorandum

1. Whether ''other factors'' require that the Department consider two recent World Trade Organization (''WTO'') determinations with respect to zeroing
2. Whether the Department's conclusion in the April 9, 2007, ''Issues and Decision Memorandum for the Final Results of the Section 129 Determinations'' (''Final Section 129 Determination'') to revoke the order undermines the validity of *Preliminary Results*
3. Whether the Department's implementation in ''Final Section 129 Determination'' of WTO rulings pertaining to zeroing undermines the validity of Preliminary Results
4. Whether the recalculated weighted–average margin of zero percent for Corus Staal in ''Final Section 129 Determination'' undermines the ''likely margin to prevail'' if the order were revoked that was referenced in *Preliminary Results*
5. Whether the Department may rely on the presumptions embodied in *Policies Regarding the Conduct of Five–year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (''Sunset Review Policy Bulletin'')
6. Whether the Department's decision in ''Final Section 129 Determination'' to revoke the order means that Corus Staal will not dump in the future
7. Whether *Sunset Review Policy Bulletin* presupposes a validly issued order and would not apply in the absence of a validly issued order
8. Whether the Department may rely on margins calculated in administrative reviews based on zeroing
9. Whether domestic producers' withdrawals of administrative review requests prevented meaningful analysis of import and margin trends.
10. The impact of the Section 201 tariffs on steel product imports.
11. The significance of declining margins and steady (or rising) imports

[FR Doc. E7–12435 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Patent Term Extension

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 27, 2007.

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

- *E-mail: Susan.Fawcett@uspto.gov.* Include ''0651–0020 comment'' in the subject line of the message.
- *Fax:* 571–272–0112, marked to the attention of Susan Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Robert A. Clarke, Deputy Director, Office of Patent Legal Administration, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7735; or by e-mail at *Robert.Clarke@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Federal Food, Drug and Cosmetic Act at 35 U.S.C. 156 permits the United States Patent and Trademark Office (USPTO) to restore the patent term lost due to certain types of regulatory review by the Federal Food and Drug Administration or the Department of Agriculture. Only patents for drug products, medical devices, food additives, and color additives are eligible for extension. The maximum length that a patent may be extended in order to restore the lost portion of the patent term is five years.

The USPTO may in some cases extend the term of an original patent due to certain delays in the prosecution of the patent application, including delays caused by interference proceedings, secrecy orders, or appellate review by the Board of Patent Appeals and Interferences or a Federal court in which the patent is issued pursuant to a decision reversing an adverse determination of patentability. The patent term provisions of 35 U.S.C. 154(b), as amended by Title IV, Subtitle D of the Intellectual Property and Communications Omnibus Reform Act of 1999, require the USPTO to notify the applicant of the patent term adjustment in the notice of allowance and give the applicant an opportunity to request reconsideration of the USPTO's patent term adjustment determination. The USPTO may also reduce the amount of patent term adjustment granted if delays were caused by an applicant's failure to make a reasonable effort to respond within three months of the mailing date of a communication from the USPTO. Applicants may petition for reinstatement of a reduction in patent term adjustment with a showing that, in spite of all due care, the applicant was unable to respond to a communication from the USPTO within the three month period.

The USPTO administers 35 U.S.C. 154 and 156 through 37 CFR 1.701–1.791. These rules permit the public to submit applications to the USPTO to extend the term of a patent past its original expiration date, to request interim extensions and review of final eligibility decisions, and to withdraw an application requesting a patent term extension after it is submitted. Under 35 U.S.C. 156(d), an application for patent term extension must identify the approved product, the patent to be extended, the claims included in the patent for the approved product, and a method of use or manufacturing for the approved product. In addition, the application for patent term extension must provide a brief description of the

activities undertaken by the applicant during the regulatory review period with respect to the approved product and the significant dates of these activities.

The term of a patent which claims a product, a method of using a product, or a method of manufacturing a product shall be extended if the term of the patent has not expired before an application is submitted. The Federal Food, Drug and Cosmetic Act requires that an application for patent term extension be filed with the USPTO within 60 days of the product receiving regulatory approval from the Federal Food and Drug Administration or the Department of Agriculture. Under 35 U.S.C. 156(e), an interim extension may be granted if the term of an eligible patent for which an application for patent term extension has been submitted would expire before a certificate of extension is issued.

The information in this collection is used by the USPTO to consider whether an applicant is eligible for a patent term extension or reconsideration of a patent term adjustment and, if so, to determine the length of the patent term extension or adjustment. There are no forms associated with this collection.

II. Method of Collection

By mail, facsimile, or hand delivery to the USPTO.

III. Data

OMB Number: 0651–0020.

Form Number(s): None.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Estimated Number of Respondents: 26,859 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public from one to 25 hours, depending on the complexity of the situation, to gather the necessary information, prepare the appropriate documents, and submit the applications, requests, and petitions included in this collection.

Estimated Total Annual Respondent Burden Hours: 30,905 hours.

Estimated Total Annual Respondent Cost Burden: $9,395,120. The USPTO expects that the information in this collection will be prepared by attorneys. Using the professional rate of $304 per hour for associate attorneys in private firms, the USPTO estimates that the respondent cost burden for submitting the information in this collection will be $9,395,120 per year.

Item	Estimated time for response (in hours)	Estimated annual responses	Estimated annual burden hours
Application to Extend Patent Term under 35 U.S.C. 156	25	50	1,250
Request for Interim Extension under 35 U.S.C. 156(e)(2)	1	1	1
Petition to Review Final Eligibility Decision under 37 CFR 1.750	25	1	25
Initial Application for Interim Extension under 35 U.S.C. 156(d)(5)	20	1	20
Subsequent Application for Interim Extension under 37 CFR 1.790	1	1	1
Response to Requirement to Elect	1	2	2
Response to Request to Identify Holder of Patent Term	2	1	2
Declaration to Withdraw an Application to Extend Patent Term	2	1	2
Petition for Reconsideration of Patent Term Adjustment Determination	1	24,000	24,000
Petition for Reinstatement of Reduced Patent Term Adjustment	2	2,800	5,600
Petition to Accord a Filing Date to an Application under 37 CFR 1.740 for Extension of a Patent Term	2	1	2
Total		26,859	30,905

Estimated Total Annual Non-hour Respondent Cost Burden: $5,988,052. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

This collection has filing fees associated with the requirements for patent term extension and patent term adjustment. The USPTO estimates that the total filing costs associated with this collection will be $5,977,040 per year.

Item	Estimated annual responses	Fee amount	Estimated annual filing costs
Application to Extend Patent Term under 35 U.S.C. 156	50	$1,120	$56,000
Request for Interim Extension under 35 U.S.C. 156(e)(2)	1	0	0
Petition to Review Final Eligibility Decision under 37 CFR 1.750	1	0	0
Initial Application for Interim Extension under 35 U.S.C. 156(d)(5)	1	420	420
Subsequent Application for Interim Extension under 37 CFR 1.790	1	220	220
Response to Requirement to Elect	2	0	0
Response to Request to Identify Holder of Patent Term	1	0	0
Declaration to Withdraw an Application to Extend Patent Term	1	0	0
Petition for Reconsideration of Patent Term Adjustment Determination	24,000	200	4,800,000
Petition for Reinstatement of Reduced Patent Term Adjustment	2,800	400	1,120,000
Petition to Accord a Filing Date to an Application under 37 CFR 1.740 for Extension of a Patent Term	1	400	400
Total	26,859		5,977,040.00

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 41 cents and that up

to 26,859 submissions will be mailed to the USPTO per year. The total estimated postage cost for this collection is $11,012 per year.

The total non-hour respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be $5,988,052 per year.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 20, 2007.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division.

[FR Doc. E7–12410 Filed 6–26–07; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Chief of Engineers Environmental Advisory Board (EAB).

Topic: The EAB will discuss national considerations related to ecosystem restoration through integrated water resources management.

Date of Meeting: July 18, 2007.

Place: Hotel Palomar, 2121 P Street, NW., Washington, DC.

Time: 9 a.m. to 12 p.m.

Thirty minutes will be set aside for public comment. Members of the public who wish to speak must register prior to the start of the meeting. Registration will begin at 8:30. Statements are limited to 3 minutes.

FOR FURTHER INFORMATION CONTACT: Ms. Rennie Sherman, Executive Secretary, *rennie.h.sherman@usace.army.mil* (202) 761–7771.

SUPPLEMENTARY INFORMATION: The EAB advises the Chief of Engineers by providing expert and independent advice on environmental issues facing the Corps of Engineers. The public meeting will include presentations by the EAB as well as by Corps staff. The meeting is open to the public, and public comment is tentatively scheduled for 30 minutes beginning at 11:15. Written statements may be submitted prior to the meeting or up to 30 days after the meeting to Ms. Sherman at *rennie.h.sherman@usace.army.mil.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–3152 Filed 6–26–07; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting.

Name of Committee: Inland Waterways Users Board (Board).

Date: July 31, 2007.

Location: Holiday Inn Louisville-Downtown, 120 West Broadway, Louisville, KY 40202, (502) 582–2241.

Time: Registration will begin at 8:30 a.m. and the meeting is scheduled to adjourn at 1 p.m.

Agenda: The Board will hear briefings on the status of both the funding for inland navigation projects and studies, and the Inland Waterways Trust Fund, and be provided updates of various inland waterways projects.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, Headquarters, U.S. Army Corps of Engineers, CECW–CO, 441 G Street, NW., Washington, DC 20314–1000; Ph: (202) 761–4258.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Brenda S. Bown,

Army Federal Register Liaison Officer.

[FR Doc. 07–3151 Filed 6–26–07; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by July 3, 2007. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before August 27, 2007.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Nicole Cafarella, Desk Officer, Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection

requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: June 21, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Hurricane Education Recovery Awards.

Abstract: Making Emergency Supplemental Appropriations and Additional Supplemental Appropriations for Agricultural and Other Emergency Assistance for the Fiscal Year Ending September 30, 2007, and for Other Purposes (Pub. L. 110–28) provides $30 million in awards to institutions of higher education, as defined in section 101 or section 102(c) of the HEA, that are located in an area in which a major disaster was declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to Hurricanes Katrina or Rita that were forced to close, relocate or significantly curtail their activities as a result of damage directly caused by the hurricanes. These Hurricane Education Recovery Awards can only be used to defray expenses, including expenses that would have been covered by revenue lost as a direct result of Hurricanes Katrina or Rita, expenses already incurred, and construction expenses directly related to damage resulting from Hurricanes Katrina or Rita and for payments to enable affected institutions to provide grants to students who attend such institutions for academic years beginning on or after July 1, 2006.

Additional Information: Congress continues to be concerned with the devastation caused in 2005 to several states and these additional appropriations were recently voted to help with necessary funding to help these communities get back to normal educational pursuits.

Frequency: Annually.

Affected Public: Not-for-profit institutions; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 50.
Burden Hours: 75.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3395. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–12398 Filed 6–26–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 27, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 21, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: A Study of the Effects of Using Classroom Assessment for Student Learning.

Frequency: On Occasion; Semi-Annually; Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 12,288.
Burden Hours: 1,611.

Abstract: This study examines the impact of Classroom Assessment for

Student Learning (CASL), a professional development program in classroom assessment, on student achievement and other student and teacher outcomes. Participating schools will be randomly assigned to either the intervention or control group. Each school in the intervention group will include a team of three to six Grade 4 and 5 mathematics teachers who will implement the CASL program. Teachers in the control schools will engage in their regular professional development activities. The study will take place during the 2007–2008 and 2008–2009 school years.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3315. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–12411 Filed 6–26–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On June 20, 2007, the Department of Education published a comment period notice in the **Federal Register** (Page 33985, Column 2) for the information collection, ''Postsecondary Student Achievement and Institutional Performance Pilot Program.'' This notice was published in error. Once the Department finalizes this collection, ED will publish another comment period notice.

The Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: June 21, 2007.

James Hyler,

Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.

[FR Doc. E7–12397 Filed 6–26–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Closure of Yucca Mountain Freedom of Information Act Reading Room at Las Vegas Information Center and Opening of Office of Civilian Radioactive Waste Management Reading Room at the Pahrump Information Center

AGENCY: U.S. Department of Energy.

ACTION: Notice of action.

SUMMARY: The U.S. Department of Energy (DOE) managed the Las Vegas Information Center located at 4101 B Meadows Lane, Las Vegas, Nevada. This facility housed the Yucca Mountain Project's FOIA Reading Room. On March 29, 2007, the Las Vegas Information Center, including the FOIA reading room was closed. The OCRWM reading room was relocated to the Pahrump Information Center located at 2341 E. Postal Drive, Pahrump, Nevada, in Nye County on June 18, 2007.

DATES: The Pahrump Information Center OCRWM reading room opened on June 18, 2007. The reading room hours of operation are Mondays and Wednesdays, 9 a.m.–3:30 p.m., Pacific Standard Time.

ADDRESSES: The Pahrump Information Center is located at 2341 E. Postal Drive, Pahrump, Nevada 89048.

FOR FURTHER INFORMATION CONTACT: For general information regarding the reading room hours of operation, call 775–751–5817, or leave a message at 1–800–225–6972.

Issued in Washington, DC, on June 21, 2007.

Allen B. Benson,

Director, Office of External Affairs, Office of Civilian Radioactive Waste Management.

[FR Doc. E7–12414 Filed 6–26–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board

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

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), requires that public notice of these meetings be announced in the **Federal Register**.

DATES: August 14, 2007 (Board to tour the Lawrence Berkeley National Laboratory).

August 15, 2007 from 8:30 a.m. to 5 p.m. (Open Meeting).

August 16, 2007 from 8:30 a.m. to 11:30 a.m. (Open Meeting).

ADDRESSES: Hotel Durant, 2600 Durant Ave., Berkeley, CA 94704.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Assistant Manager, Office of Intergovernmental Projects & Outreach, Golden Field Office, Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303/275–4801.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Briefings on, and discussions of:

—EERE Energy Efficiency and Policy.

• EERE Project Management Center.

—Board Discussions/Responses to Laboratory Presentations.

—STEAB Effectiveness/Formal Discussions Regarding Current STEAB Products and the Potential Development of New Recommendations and Resolutions.

—STEAB Effectiveness/Preliminary Discussions for the Development of the FY 07 STEAB Annual Report.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the

meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The notes will also be made available for downloading on the STEAB Web site, *http://www.steab.org*, within 60 days.

Issued at Washington, DC, on June 21, 2007.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–12419 Filed 6–26–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board

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

ACTION: Notice of open teleconference.

SUMMARY: This notice announces a teleconference of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these teleconferences be announced in the **Federal Register**.

DATE: July 19, 2007 from 2 p.m. to 3 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Assistant Manager, Intergovernmental Projects & Outreach, Golden Field Office, U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303/275–4801.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Update members on routine business matters.

Public Participation: The teleconference is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the conference call; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the call in a fashion that will facilitate the orderly conduct of business.

Notes: The notes of the teleconference will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The notes will also be made available for downloading on the STEAB Web site, *http://www.steab.org,* within 60 days.

Issued at Washington, DC, on June 21, 2007.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–12443 Filed 6–26–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2007–0142; FRL–8332–1]

Agency Information Collection Activities; Proposed Collection; Comment Request; See List of ICRs Planned To Be Submitted in Section A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit a request to renew three existing Information Collection Requests (ICR) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of **SUPPLEMENTARY INFORMATION**.

DATES: Comments must be submitted on or before August 27, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2007–0142, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: ow-docket@epa.gov* (Identify Docket ID No. EPA–HQ–OW–2007–0142 in the subject line).
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of three copies.
- *Hand Delivery:* EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue, 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 identified by the Docket ID No. EPA–HQ–OW–2007–0142. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Amelia Letnes, State and Regional Branch, Water Permits Division, OWM Mail Code: 4203M, Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460; telephone number: (202) 564–5627; e-mail address: *letnes.amelia@epa.gov.*

SUPPLEMENTARY INFORMATION:

For All ICRS

An Agency may not conduct or sponsor, and a person is not required to respond to collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for these ICRs under Docket ID No. EPA–HQ–OW–2007–0142, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 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 Water Docket is 202–566–2426.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of technical information/data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES.**
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

A. List of ICRS Planned To Be Submitted

(1) Concentrated Aquatic Animal Production Point Source Category Effluent Guidelines Reporting and Recordkeeping Requirements, EPA ICR Number 2087.03, OMB Control Number 2040–0258, expiration date 09/30/2007.

(2) National Pollutant Discharge Elimination System (NPDES)/Compliance Assessment/Certification Information, EPA ICR Number 1427.08, OMB Control Number 2040–0110, expiration date 09/30/2007.

(3) National Pretreatment Program, EPA ICR Number 0002.13, OMB Control Number 2040–0009, expiration date 09/30/2007.

B. Individual ICRS

(1) Concentrated Aquatic Animal Production Point Source Category Effluent Guidelines Reporting and Recordkeeping Requirements, EPA ICR Number 2087.03, OMB Control Number 2040–0258, expiration date 09/30/2007.

Affected Entities: Entities potentially affected by this action are a subset of facilities engaged in aquatic animal production defined to 40 CFR part 451.

Abstract: This ICR requests OMB renewal of the ICR for the: ''Effluent Limitations Guidelines and Standards for Concentrated Aquatic Animal Production (CAAP) Point Source Category'' (Effluent Guidelines). The rule establishes specific reporting requirements for a segment of CAAP facilities through NPDES permits. The rule covers facilities which are defined as CAAP facilities (see 40 CFR 122.24 and 40 CFR part 122 Appendix C) and produce at least 100,000 pounds per year in flow through, recirculating and net pen systems.

The rule includes special reporting and recordkeeping requirements which are the subject of this ICR. CAAP facility owners or operators are also required to file reports with the permitting authority when drugs with special approvals are applied to the production units or a failure in the structural integrity occurs in the aquatic animal containment system.

When CAAP facilities apply either an Investigational New Animal Drug (INAD) or a drug that has been prescribed extra-label by a veterinarian to treat the aquatic animals at their facility, the owner or operator must report this use to the permitting authority. In addition, the owner or operator of a CAAP facility must notify the permitting authority upon agreeing to participate in an INAD study.

Whenever a structural failure occurs in the aquatic animal containment system, the owner or operator must report this to the permitting authority. For the purposes of this requirement, the aquatic animal containment system is defined as the unit(s) that contain(s) the aquatic animals and in which their culture takes place, as well as the wastewater handling and treatment units associated with aquatic animal production.

CAAP facilities subject to this regulation are also required to develop and implement a Best Management

Practices (BMP) plan that ensures that the regulatory requirements will be met. Upon completion of this BMP plan, the owner or operator must certify to the permitting authority that the plan has been developed.

CAAP facilities are also expected to keep records of the feed inputs along with an estimate of the number and weight of the animals being raised. These records are to be used to calculate the feed conversion ratios for the facility. Records must also be kept documenting the frequency of facility inspections, maintenance and repairs, along with the cleaning of the rearing units at flow through and recirculating facilities or changing the nets at net pen facilities.

This information collection may contain CBI, especially the reporting requirements associated with investigational drug use. If this is the case, the respondent may request that such information be treated as confidential. All confidential data will be handled in accordance with 40 CFR 122.7, 40 CFR part 2 and EPA's Security Manual. However, Clean Water Act (CWA) sec. 308(b) specifically states that effluent data may not be treated as confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 180 hours per respondent per year, or 60 hours per response.

Estimated total number of potential respondents: 245 (200 facilities and 45 States).

Frequency of response: Once every five years, on occasion, on-going.

Estimated total average number of responses for each respondent: Three.

Estimated total annual burden hours: 44,196 hours.

Estimated total annual costs: $971,500. This includes an estimated burden cost of $971,500 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Change in Burden: There is a decrease of 4 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's corrections to the 2004 ICR and is not the result of changes to the requirements covered by this ICR.

(2) National Pollutant Discharge Elimination System (NPDES)/ Compliance Assessment/Certification Information, EPA ICR Number 1427.08, OMB Control Number 2040–0110, expiration date 09/30/2007.

Affected Entities: Entities potentially affected by this action are most facilities required to have NPDES permit coverage, including but not limited to publicly owned treatment works (POTWs), privately owned treatment works (PrOTWs), manufacturing and commercial dischargers, mining operations, and Concentrated Animal Feeding Operations (CAFOs).

Abstract: The purpose of this ICR is to calculate the burden and costs associated with the data requirements necessary for a permitting authority (either an authorized State or the Environmental Protection Agency (EPA)) to determine whether an existing NPDES or sewage sludge permittee is in compliance with the conditions of its permit.

A permitting authority collects information necessary to determine a permittee's compliance with specific permit requirements during the effective term of a given permit. Compliance assessment reporting requirements include routine submittals (*e.g.*, annual certifications and reports submitted when a compliance schedule milestone is reached) and non-routine submittals (*e.g.*, required when certain conditions occur, such as an unanticipated bypass). NPDES staff may use this information to determine if follow-up activities are necessary.

This ICR includes burden hours and costs associated with noncompliance reports for Concentrated Animal Feeding Operations (CAFOs) not accounted for in the NPDES Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations ICR (EPA ICR No. 1989.04; OMB No. 2040–0250).

Five additional effluent limitations guidelines development ICRs are set to expire in the next three years prior to the next renewal of this Compliance Assessment/Certification ICR. The burden for direct dischargers associated with those five ICRs has been incorporated into the Compliance Assessment/Certification ICR as part of this renewal process. The five ICRs include:

1. Milestone Plans for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category (40 CFR part 430), EPA ICR No. 1877.02, OMB Control No. 2040–0202;

2. Best Management Practices (BMPs) for Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Kraft Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category (40 CFR part 430), EPA ICR No. 1829.02, OMB Control No. 2040–0207;

3. Baseline Standards and Best Management Practices for the Coal Mining Point Source Category (40 CFR part 434)—Coal Remining Subcategory and Western Alkaline Coal Mining Subcategory, EPA ICR No. 1944.02, OMB Control No. 2040–0239;

4. Voluntary Certification in Lieu of Chloroform Minimum Monitoring Requirements for Direct and Indirect Discharging Mills in the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper and Paperboard Manufacturing Category (40 CFR part 430), EPA ICR No. 2015.01, OMB Control No. 2040–0242; and

5. Minimum Monitoring Requirements for Direct and Indirect Discharging Mills in the Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper and Paperboard Manufacturing Category (40 CFR part 430), EPA ICR No. 1878.01, OMB Control No. 2040–0243.

Burden Statement: The annual average reporting and recordkeeping burden for this collection of information by facilities responding is estimated to be 4.47 hours per respondent (*i.e.*, an annual average of 2,015,231 hours of burden divided among an anticipated annual average of 450,509 unique facilities). The State reporting and recordkeeping burden is estimated to average 1,117 hours per State respondent (*i.e.*, an annual average of 51,384 hours of burden divided among 46 States).

Estimated total number of potential respondents: 450,555 (450,509 facilities and 46 States).

Frequency of response: Every five years, annual, semiannual, quarterly, monthly, on occasion.

Estimated total average number of responses for each respondent: 2.41 (1.1 for facilities, 637 for States)

Estimated total annual burden hours: 2,066,615 hours.

Estimated total annual costs: $92,351,594. This includes an estimated burden cost of $92,351,594 and an estimated cost of $0 for capital investment or maintenance and operational costs.

Change in Burden: There is an increase of 257,035 hours (14.2%) in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase is the result of the migration of burden from the five ICRs listed above to this ICR and the increase in the number of expected stormwater construction and other non-stormwater general permittees. It is not the result of changes to the requirements covered by this ICR.

(3) National Pretreatment Program, EPA ICR Number 0002.13, OMB Control

Number 2040–0009, expiration date 09/30/2007.

Affected Entities: Various industrial categories, publicly owned treatment works (POTWs), Local and State governments

Abstract: This ICR calculates the burden and costs associated with managing and implementing the National Pretreatment Program as mandated under CWA sections 402(a) and (b) and 307(b). This ICR includes all existing tasks under the National Pretreatment Program, as amended by the EPA's recent Streamlining Rule. It integrates key elements from two existing ICRs whose approvals are due to expire shortly: (1) Information Collection Request for the National Pretreatment Program, OMB Control No.: 2040–0009, EPA ICR No.: 0002.11, June 7, 2005, and (2) Revision of the Information Collection Request for the National Pretreatment Program (Pretreatment Streamlining ICR) (Title 40 of the Code of Federal Regulations [CFR] Part 403), OMB Control No. 2040–0009, EPA ICR No. 0002.12, September 22, 2005.

EPA's Office of Wastewater Management (OWM) in the Office of Water (OW) is responsible for the management of the pretreatment program. The CWA requires EPA to develop national pretreatment standards to control discharges from Industrial Users (IUs) into POTWs. These standards limit the level of certain pollutants allowed in non-domestic wastewater that is discharged to a POTW. EPA administers the pretreatment program through the NPDES permit program. Under the NPDES permit program, EPA may approve State or individual POTW implementation of the pretreatment standards at their respective levels. Data collected from IUs during implementation of the pretreatment program include the mass, frequency, and content of IU discharges and IU schedules for installing pretreatment equipment. Data also include actual or anticipated IU discharges of wastes that violate pretreatment standards, have the potential to cause problems at the POTW, or are considered hazardous under the Resource Conservation and Recovery Act (RCRA). OWM uses the data collected under the pretreatment program to monitor and enforce compliance with the pretreatment regulations, as well as to authorize program administration at the State or Local (POTW) level. States and POTWs applying for approval of their pretreatment programs submit data concerning their legal, procedural, and administrative bases for establishing such programs. This information may include surveys of IUs, local limits for pollutant concentrations, and schedules for completion of major project requirements. IUs and POTWs submit written reports to the approved State or EPA. These data may then be entered into the NPDES databases by the approved State or by EPA.

Four additional effluent limitations guidelines development ICRs are set to expire within the next three years, before the next renewal of this Pretreatment Program ICR. The burden for indirect dischargers associated with those four ICRs has been incorporated into this Pretreatment Program ICR as part of this renewal process. The four ICRs are the following:

1. Pollution Prevention Compliance Alternative; Transportation Equipment Cleaning Point Source Category (40 CFR part 442), EPA ICR No. 2018.02, OMB Control No. 2040–0235.

2. Voluntary Certification in Lieu of Chloroform Minimum Monitoring Requirements for Direct and Indirect Discharging Mills in the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper and Paperboard Manufacturing Category (40 CFR part 430), EPA ICR No. 2015.01, OMB Control No. 2040–0242.

3. Best Management Practices (BMPs) for Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Kraft Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category (40 CFR part 430), EPA ICR No. 1829.02, OMB Control No. 2040–0207.

4. Minimum Monitoring Requirements for Direct and Indirect Discharging Mills in the Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper and Paperboard Manufacturing Category (40 CFR part 430), EPA ICR No. 1878.01, OMB Control No. 2040–0243.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 67.8 hours per respondent per year, or 68 hours per response.

Estimated total number of potential respondents: 24,740 (35 States, 1,512 POTWs and 23,193 industrial users).

Frequency of response: On occasion, semi-annually, annually, and as needed.

Estimated total average number of responses for each respondent: 4.1.

Estimated total annual burden hours: 1,806,020 hours.

Estimated total annual costs: $80,688,312. This includes an estimated burden cost of $80,698,312 and an estimated cost of $10,000 for capital investment or maintenance and operational costs.

Change in Burden: There is a decrease of 142,439 (7.3%) hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. There are burden increases reflected in this ICR due to increases in the estimates of state respondents, number of approved programs, and incorporation of burden from other ICRs. However, the main change in burden is reflected in a decrease in the number of SIUs. EPA revised the estimated number of SIUs and pretreatment programs after extensive consultation with the EPA regions and a thorough examination of PCS data. This resulted in an overall decrease in the burden of this ICR.

Dated: June 22, 2007.

James A. Hanlon,

Director, Office of Wastewater Management.

[FR Doc. E7–12445 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8331–6]

Protection of Stratospheric Ozone: Notice of Data Availability—Changes in HCFC Consumption and Emissions From the U.S. Proposed Adjustments for Accelerating the HCFC Phaseout

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is making available to the public information concerning the potential changes in hydrochlorofluorocarbon (HCFC) consumption and emissions from the proposed adjustments to the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol) submitted by the United States for consideration at the 19th Meeting of the Parties (MOP–19) to be held in Montreal beginning on September 17, 2007. HCFCs are already subject to controls under the Protocol, and the proposed adjustments would accelerate the application of those controls. While HCFCs are less damaging to stratospheric ozone than the chlorofluorocarbons (CFCs) they replaced, they still deplete the ozone layer. EPA is making available the report *Changes in HCFC Consumption and Emissions from the U.S. Proposed Adjustments for Accelerating the HCFC Phaseout,* prepared by ICF Consulting.

The information gathered and presented in the report concerns the United States' proposal to adjust the HCFC phaseout schedule under the Montreal Protocol. Because EPA plans to use this information in preparation for MOP–19, EPA wants to provide the public with an opportunity to review the information and submit comments. Readers should note that EPA will only consider comments about the information presented in *Changes in HCFC Consumption and Emissions from the U.S. Proposed Adjustments for Accelerating the HCFC Phaseout* and is not soliciting comments on any other topic. In particular, EPA is not soliciting comments on the HCFC phaseout established in EPA's December 10, 1993, rulemaking (58 FR 65018).

DATES: EPA will accept comments on the data through July 27, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0530, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Docket #, Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Docket #EPA–HQ–OAR–2003–0163, Air and Radiation Docket at EPA West, 1301 Constitution Avenue NW., Room B108, Mail Code 6102T, 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–2007–0530. 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: Cindy Axinn Newberg, by regular mail: U.S. Environmental Protection Agency (6205J), 1200 Pennsylvania Ave., NW., Washington, DC 20460; by courier service or overnight express: 1310 L Street, NW., Room 1047A, Washington, DC 20005; by telephone: (202) 343–9729; by fax: (202) 343–2338; or by e-mail: *newberg.cindy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Outline

1. What is this Action?
2. What information is EPA making available for review and comment?
3. Where can I get the information?
4. How is this action related to the U.S. phaseout of ozone-depleting substances?
5. What should I consider as I prepare my comments for EPA?
6. What is EPA not taking comment on?
7. What supporting documentation do I need to include in my comments?
8. Will there be other opportunities to provide comment on the information?

1. What is this Action?

While the Parties to the Montreal Protocol have already made tremendous strides in phasing out ozone-depleting substances, there are opportunities to speed recovery of the ozone layer by accelerating the phaseout of HCFCs. Under the Montreal Protocol, industrialized countries and developing countries have different schedules for phasing out production and consumption of ozone-depleting substances, including HCFCs. In this context, ''consumption'' is defined as production plus imports minus exports. The Parties have previously agreed to a phaseout schedule culminating in a complete phaseout for non-Article 5 Parties in 2030 and Article 5 Parties in 2040. Developing countries operating under Article 5, paragraph 1of the Montreal Protocol are referred to as Article 5 Parties. The United States believes steps can be taken to reduce HCFC consumption further and achieve a total phaseout more quickly. This Notice of Data Availability (NODA) describes, and provides for public review and comment, an analysis that supports accelerating the HCFC phaseout.

EPA believes that accelerating the HCFC phaseout will further protect the ozone layer. For example, adoption of all four elements of the U.S. proposal would result in a 54 percent reduction in HCFC emissions compared to the current phaseout schedule. EPA's analysis discusses the HCFC phaseout in a broader context, however, and also considers the transition to likely HCFC alternatives and improvements in energy efficiency that will result from the installation of new equipment. Such an approach is necessary to ensure that potential benefits are considered in the appropriate context. The data made available through this Notice is specific to the United States' proposal but may have general applicability to the other five proposals submitted by various Parties to the Protocol. Those interested in the suite of proposed adjustments are encouraged to review *Proposed Adjustments to the Montreal Protocol (UNEP/OzL.Pro.WG.1/27/8/Rev.2)*, on the Web at: *http://ozone.unep.org/Meeting_Documents/oewg/27oewg/OEWG-27-8-Rv2Cr1E.pdf.*

EPA is making available information concerning analysis of the proposed adjustments submitted by the United States for consideration at MOP–19. Comments submitted in response to this Notice of Data Availability (NODA) may be used as EPA and other agencies prepare for MOP–19.

2. What information is EPA making available for review and comment?

EPA is making available for review and comment a draft report prepared by ICF Consulting under contract to EPA, *Changes in HCFC Consumption and Emissions from the U.S. Proposed Adjustments for Accelerating the HCFC Phaseout.*

Those interested in this NODA may wish to review the Protocol and the recent proceedings from the 27th Open-Ended Working Group (OEWG) Meeting held in Nairobi, Kenya June 4–7, 2007 (*http://ozone.unep.org/Meeting_Documents/oewg/27oewg/index.shtml*), as well as the specific six sets of proposed adjustments submitted by nine Parties presented in *Proposed Adjustments to the Montreal Protocol (UNEP/OzL.Pro.WG.1/27/8/Rev.2).*

3. Where can I get the information?

All of the information can be obtained through the Air Docket (see **ADDRESSES** section above for docket contact info). A link to the report *Changes* in *HCFC Consumption and Emissions from the U.S. Proposed Adjustments for Accelerating the HCFC Phaseout* will be on the EPA Web site: *http://www.epa.gov/ozone/strathome.html*.

4. How is this action related to the U.S. phaseout of ozone-depleting substances?

The following table shows the U.S. schedule for phasing out its consumption of HCFCs in accordance with the current terms of the Protocol for Non-Article 5 Parties.

HCFC PHASEOUT SCHEDULE

Comparison of the current Montreal Protocol schedule for Non-Article 5 Parties and United States phaseout schedules

Montreal Protocol		United States	
Year to be implemented	Percent reduction in consumption, using the cap as a baseline	Year to be implemented	Implementation of HCFC phaseout through Clean Air Act regulations
2004	35.0	2003	No production and no importing of HCFC–141b.
2010	65.0	2010	No production and no importing of HCFC–142b and HCFC–22, except for use in equipment manufactured before 1/1/2010. No production and no importing of any HCFCs, except for use as refrigerants in equipment manufactured before 1/1/2020.
2020	99.5	2020	No production and no importing of HCFC–142b and HCFC–22.
2030	100.0	2030	No production and no importing of any HCFCs.

The following table shows the current obligations for Article 5 Parties for phasing out HCFCs.

CURRENT MONTREAL PROTOCOL OBLIGATIONS FOR ARTICLE 5(I) PARTIES FOR HCFC CONSUMPTION

Year to be implemented	Obligation
2015	Establish HCFC base consumption level.
2016	Maintain HCFC base consumption level.
2040	100% reduction in base consumption level.

The proposed adjustments would accelerate the phaseout schedule for both Article 5 and non-Article 5 Parties by 10 years; would move forward the year for which non-Article 5 Parties establish a baseline and freeze consumption; would add stepwise reductions to the Article 5 Parties' schedule rather than maintaining a freeze for 25 years followed by a complete phaseout, and would follow a phaseout schedule based on the ozone-depleting potential of the various HCFCs similar to our domestic approach—called 'worst-first' or 'worst-faster'.

5. What should I consider as 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.
2. Describe any assumptions that you used.
3. Provide any technical information or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

6. What is EPA not taking comment on?

EPA is only accepting comments on accuracy and completeness of the information outlined in this **Federal Register** Notice and contained in the report *Changes in HCFC Consumption and Emissions from the U.S. Proposed Adjustments for Accelerating the HCFC Phaseout.* EPA is not accepting comment on the following:

- HCFC phaseout established in EPA's December 10, 1993 rulemaking (58 FR 65018),
- The allowance system for controlling HCFC production import and export, or
- The commitments of the U.S. as a Party to the Montreal Protocol.

7. What supporting documentation do I need to include in my comments?

Please provide any published studies or raw data supporting your position.

8. Will there be other opportunities to provide comment on the information?

EPA or other U.S. government agencies may decide to schedule a public meeting for stakeholders concerning the proposed adjustments or other issues that may be discussed at MOP–19 after July 27, 2007 to continue a dialogue. At this time, EPA has not scheduled such a meeting.

Dated: June 21, 2007.

Edward Callahan,

Acting Director, Office of Atmospheric Programs, Office of Air and Radiation, U.S. Environmental Protection Agency.

[FR Doc. E7–12446 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8331–7]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held July 17–19, 2007 at RESOLVE, Washington, DC. The CHPAC was created to advise the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

DATES: Task Groups will meet on Tuesday July 17th, and the CHPAC Plenary will meet on Wednesday July 18th and Thursday July 19th, 2007 at RESOLVE.

ADDRESSES: RESOLVE, 1255 23rd Street, NW., Suite 275, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carolyn Hubbard, Office of Children's Health Protection and Environmental Education, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2189, *hubbard.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION: The meetings of the CHPAC are open to the public. Task Group meetings will take place on Tuesday July 17th, 2007 at RESOLVE from 8:30 a.m. to 5:30 p.m. The CHPAC plenary will meet on Wednesday July 18th from 8:30 a.m. to 5:45 p.m. and Thursday July 19th from 8:30 a.m. to 12:30 p.m. Agenda items include discussion and next steps from the Emerging Chemicals of Concern, NAAQS for Ozone, 2007 Anniversary and the Children's Environmental Health Research Centers Task Groups. EPA Administrator Stephen Johnson may meet with the committee at a time to be determined on July 18th or 19th. Draft agenda attached.

Access and Accommodations: For information on access or services for individuals with disabilities, please contact Carolyn Hubbard at 202–564–2189 or *hubbard.carolyn@epa.gov.* To request accommodation of a disability, please contact Carolyn Hubbard preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 21, 2007.

Carolyn Hubbard,

Designated Federal Official.

U.S. Environmental Protection Agency

Children's Health Protection Advisory Committee

RESOLVE, 1255 23rd Street NW., Suite 275, Washington, DC 20037

Draft Agenda

Tuesday, July 17, 2007

Task Group Meetings

8:30–12 Emerging Chemicals of Concern Task Group (ECOC).

8:30–12 National Ambient Air Quality Standard (NAAQS) for Ozone Task Group.

1–5:30 Children's Environmental Health Research Centers (CEHRC) Task Group.

Wednesday, July 18, 2007

CHPAC Plenary Session

8:30–9 Continental Breakfast and Gathering.

9–9:15 Welcome, Introductions, Review Meeting Agenda.

9:15–9:30 Highlights of Recent OCHPEE Activities.

9:30–10:30 Children's Environmental Health Research Centers Review.

10:30–10:45 Break.

10:45–12 Children's Environmental Health Research Centers Work Group Comment letter.

12–1:30 LUNCH (on your own).

1:30–3 Emerging Chemicals of Concern Workgroup Update.

3–3:15 Break.

3:15–4:15 National Ambient Air Quality Standard (NAAQS) for Ozone Update.

4:15–5:15 Next Decade: 2007 Anniversary of the Executive Order Workgroup Update.

5:15 Public Comment.

5:45 Adjourn for the day.

Thursday, July 19, 2007

CHPAC Plenary Session continued

8:30–9 Coffee.

9–9:15 Check in and agenda review.

9:15–10:15 Children's Environmental Health Research Centers Recommendation.

10:15–10:30 Break.

10:30–11:30 NAAQS for Ozone Recommendations.

11:30–12:30 Wrap Up/Next Steps.

12:30 Adjourn.

[FR Doc. E7–12420 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8331–8]

Federal Advisory Committee To Examine Detection and Quantitation Approaches in Clean Water Act Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; FACA Committee Meetings Announcement.

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency is announcing four meetings of the Federal Advisory Committee on Detection and Quantitation Approaches and Uses in Clean Water Act (CWA) Programs (FACDQ).

DATES: The FACDQ plans to hold four meetings for the remainder of 2007. Two of those meetings will be held via teleconference on July 25, 2007 and August 28, 2007. The teleconferences on July 25, 2007 and August 28, 2007 will be from 1 pm to 5 pm. All times are Eastern time. The other two meetings will be held on Wednesday, Thursday and Friday, September 19–21 and on December 5–7, 2007. The meetings on September 19–20, 2007, will be from 9 a.m. until 8 p.m.; and on September 21, 2007, from 8 a.m. to 3 p.m.; and the meetings on December 6–7, 2007, will be from 9 a.m. until 8 p.m.; and on December 8, 2007, from 8 a.m. until 3 p.m. All times are Eastern Time.

ADDRESSES: The July and August teleconferences are open to the public. The public may obtain the call-in number and access code for the teleconference lines from Meghan Hessenauer, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. The September and December 2007 meetings of the Committee will be held at the L. William Seidman Center, 3501 North Fairfax Drive, Arlington, Virginia, across from the Virginia Square Metro stop on the Orange line. Members of the public may attend this meeting in person or via teleconference. The public may obtain the call-in number and access code for the teleconference lines from Meghan Hessenauer, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Document Availability: The draft agenda for these meetings is provided in the General Information section of this notice. The draft agenda may also be viewed through EDOCKET, as provided

in section I.A. of the **SUPPLEMENTARY INFORMATION** section of this notice or on our Web site at *http://www.epa.gov/methods/det*. Any member of the public interested in making an oral presentation at the Committee meeting may contact Richard Reding, whose contact information is listed under **FOR FURTHER INFORMATION CONTACT** section of this notice. Requests for making oral presentations will be accepted up to 2 business days prior to each meeting date. In general, each individual making an oral presentation will be limited to a total of three minutes.

Submitting Comments

Written comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in section I.B of the **SUPPLEMENTARY INFORMATION** section. Written comments will be accepted up to two business days prior to each meeting date.

FOR FURTHER INFORMATION CONTACT:

Meghan Hessenauer, Engineering and Analysis Division, MC4303T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone number: (202) 566–1040; Fax number: (202) 566–1053; E-mail address: *Hessenauer.Meghan@EPA.GOV*; Richard Reding, Designated Federal Officer, Environmental Protection Agency, Office of Water, Mail Code 4303T, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone number: (202) 566–2237; Fax number: (202) 566–1053; E-mail address: *Reding.Richard@EPA.GOV*.

SUPPLEMENTARY INFORMATION:

I. General Information

This notice announces four meetings of the FACDQ. The purpose of these meetings is to complete the evaluation and selection of a procedure or procedures to calculate detection and quantitation limits, and complete the Committee's recommendations to the EPA Administrator for use of those detection and quantitation procedures and limits in CWA programs. The meeting agendas are available on the internet at *http://www.epa.gov/methods/det*.

Information on Services for Individuals With Disabilities

For information on access or services for individuals with disabilities, please contact Meghan Hessenauer at (202) 566–1040 or e-mail: *hessenauer.meghan@epa.gov* to request accommodation of a disability, at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

A. How Can I Get Copies of Related Information?

1. *Docket*. EPA has established an official public docket for this committee under Docket ID NO., OW–2004–0041. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Documents in the official public docket are listed in the index in EPA's electronic public docket and comment system, EDOCKET. Documents are available either electronically or in hard copy. Electronic documents may be viewed through EDOCKET. Hard copies of the draft agendas may be viewed at the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OW Docket is (202) 566–2426.

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/*.

An electronic version of the public docket is available through EDOCKET. You may use EDOCKET at *http://www.epa.gov/edocket/*. To submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number (OW–2004–0041).

For those wishing to make public comments, it is important to note that EPA's policy is that comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks mailed or delivered to the docket will be transferred to EPA's electronic public docket. Written public comments mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number (OW–2004–0041) in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period.

1. *Electronically*. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the comment, and it allows EPA to contact you if further information on the substance of the comment is needed or if your comment cannot be read due to technical difficulties. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment placed in the official public docket and made available in EPA's electronic public docket. 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.

i. *EDOCKET*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EDOCKET at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, *http://www.epa.gov*, select ''Information Sources,'' ''Dockets,'' and ''EDOCKET.'' Once in the system, select ''search,'' and then key in Docket ID No. OW–2004–0041. The system is an anonymous access system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by electronic mail (e-mail) to

OW.Docket@epa.gov, Attention Docket ID No. OW–2004–0041. In contrast to EPA's electronic public docket, EPA's e-mail system is not an anonymous access system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM.* You may submit comments on a disk or CD–ROM mailed to the mailing address identified in section I.B.2 of this notice. These electronic submissions will be accepted in Word, WordPerfect or rich text files. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: U.S. Environmental Protection Agency, OW Docket, EPA Docket Center (EPA/DC), Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OW–2004–0041.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center (EPA/DC), Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW–2004–0041 (**Note:** This is not a mailing address). Such deliveries are only accepted during the docket's normal hours of operation as identified in section I.A.1 of this notice.

Dated: June 21, 2007.

Richard Reding,

Designated Federal Officer.

[FR Doc. E7–12448 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2002–0302]; FRL–8127–5]

Dichlorvos (DDVP); Termination of Certain Uses and Label Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's cancellation order for the termination of certain uses and label amendments, voluntarily requested by the registrant and accepted by the Agency, of products containing the pesticide dichlorvos (DDVP), pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a March 23, 2007 and April 13, 2007 **Federal Register** Notice of Receipt of Request from the DDVP registrant to voluntarily terminate certain uses of its DDVP products and label amendments. The April 13, 2007 **Federal Register** Notice inadvertantly duplicated notice of receipt of the voluntary cancellation requests for the same end use products listed in this notice. The request would terminate DDVP use in dry bait formulations and in impregnated resin cat and dog flea collars. The request would not terminate the last DDVP products registered for use in the United States.

In the Notices, EPA indicated that it would issue an order to implement the termination of certain uses, unless the Agency received substantive comments within the 30 day comment period that would merit its further review of these requests, or unless the registrant withdrew their request within this period. The Agency did not receive any comments on the Notices. Further, the registrant did not withdraw their request. Accordingly, EPA hereby issues in this notice a cancellation order granting the request to terminate the uses described above. Any distribution or sale of the DDVP products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective June 27, 2007.

FOR FURTHER INFORMATION CONTACT: Susan Bartow, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0065; fax number: (703) 308–8005; e-mail address: *bartow.susan@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 interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any 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–2002–0302. 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 Dr., 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/*.

II. What Action is the Agency Taking?

This notice grants the request by the registrant identified in this notice (Table 2) to terminate certain uses. DDVP is an organophosphate insecticide and fumigant registered for use in controlling flies, mosquitoes, gnats, cockroaches, fleas, and other insect pests. Formulations of DDVP include pressurized liquid, granular, emulsifiable concentrate, total release aerosol, and impregnated material. DDVP is applied with aerosols and fogging equipment, with ground spray equipment, and through slow release from impregnated materials, such as resin strips and pet collars. DDVP is registered to control insect pests on agricultural sites; commercial, institutional and industrial sites; and for domestic use in and around homes (i.e., resin strips) and on pets. DDVP is used preplant in mushroom houses, and postharvest in storage areas for bulk, packaged and bagged raw and processed agricultural commodities, food manufacturing/processing plants, animal premises, and non-food areas of food-handling establishments. It is also registered for direct dermal pour-on treatment of cattle and poultry, and swine. DDVP is not registered for direct use on any field grown commodities. In letters dated March 2, 2007, and March 8, 2007, Amvac Chemical Corporation requested EPA to amend to terminate uses of pesticide product registrations identified in this notice (Table 1). Specifically, the request would terminate DDVP use in dry bait formulations and in impregnated resin cat and dog flea collars. The request

would not terminate the last DDVP products registered for use in the United States.

This notice announces the termination of certain uses of DDVP product registrations. The affected products and the registrant making the request are identified in the following tables of this unit.

TABLE 1.—DDVP PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Product name	Company
5481-9	ALCO FLY FIGHTER FLY BAIT	Amvac Chemical Corporation
5481-96	DDVP TECHNICAL GRADE	Amvac Chemical Corporation
5481-341	ALCO FLEA COLLAR FOR DOGS — BLACK	Amvac Chemical Corporation
5481-342	ALCO FLEA COLLAR FOR CATS — WHITE	Amvac Chemical Corporation
5481-343	ALCO FLEA COLLAR FOR DOGS — CLEAR	Amvac Chemical Corporation
5481-345	ALCO FLEA COLLAR FOR CATS — CLEAR	Amvac Chemical Corporation

TABLE 1.—DDVP PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT—Continued

Registration No.	Product name	Company
5481-346	ALCO FLEA COLLAR FOR DOGS — GLITTERS	Amvac Chemical Corporation
5481-347	ALCO FLEA COLLAR FOR CATS — GLITTERS	Amvac Chemical Corporation
5481-461	AMVOS RESTECH	Amvac Chemical Corporation

Table 2 of this unit includes the name and address of record for the registrant of the products listed in Table 1 of this unit.

TABLE 2.—REGISTRANT REQUESTING VOLUNTARY AMENDMENTS

EPA Company No.	Company name and address
5481	Amvac Chemical Corporation, 4695 MacArthur Court, Suite 1250, Newport Beach, CA 92660

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the March 23, 2007 or the April 13, 2007, **Federal Register** notices announcing the Agency's receipt of the request for voluntary termination of certain uses of DDVP.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellation order to terminate certain uses of DDVP registrations identified in Table 1 of Unit II. Accordingly, the Agency also orders that the label amendments for the product registration identified in Table 2 of Unit II is hereby amended. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II, in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the Agency's Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

Because no product has been produced, sold or distributed for several years, the prohibition on sales, distribution and use of existing stocks is effective immediately, except that this cancellation order will not prevent the sale or distribution of any products if such sale or distribution is for purposes of:

i. Return of material to Amvac,

ii. Proper disposal, or

iii. Export consistent with the requirements of section 17 of FIFRA.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 13, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–12444 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0371 and EPA–HQ–OPP–2005–0113; FRL–8134–9]

Pesticide Product; Registration Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products Canadian Wilderness Oil, Fresh Cab, Technical DV 74, and Polyversum, containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Patricia Moe, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0744; e-mail address: *moe.patricia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any 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–2006–0371 for balsam fir oil and EPA–HQ–OPP–2005–0113 for *Pythium oligandrum*. 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 Dr., 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.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Such requests should identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

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*.

II. Did EPA Approve the Application?

The Agency approved the application after considering all required data on risks associated with the proposed use of balsam fir oil and *Pythium oligandrum* DV 74, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of balsam fir oil and *Pythium oligandrum* DV 74, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

III. Approved Application

EPA issued a notice, published in the **Federal Register** of June 14, 2006, (71 FR 34340) (FRL–8062–8), which announced that Earth-Kind Inc. (Crane Creek Gardens), had submitted applications to register the pesticide products, Canadian Wilderness Oil, (File Symbol 82016–E) and Fresh Cab, (File Symbol 82016–R), containing balsam fir oil as the active ingredient at 2.0% and 10.0% respectively. These products were not previously registered.

The applications were approved on April 26, 2007, as Canadian Wilderness Oil, (EPA Registration Number 82016–2) and Fresh Cab, (EPA Reg. No. 82016–1). These products are non-food use biochemical pesticides to repel rodents in non-living spaces indoors and in enclosed spaces outdoors.

EPA also issued a **Federal Register** notice on May 27, 2005 (70 FR 30723) (FRL–7711–1), which announced that Biopreparaty Co. Ltd., had submitted applications to register the pesticide products, Technical DV 74, (File Symbol 81606–R) and Polyversum, (File Symbol 81606–E), containing *Pythium oligandrum* DV 74 as the active ingredient at 1% and 5% respectively. These products were not previously registered.

The applications were approved on May 7, 2007, as Technical DV 74, (EPA Registration Number 81606–1) and Polyversum, (EPA Reg. No. 81606–2). These products are for use as a biofungicide and plant growth regulator.

List of Subjects

Environmental protection, Pests and pesticides.

Dated: June 18, 2007.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E7–12336 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0936; FRL–8133–4]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before July 27, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the assigned docket ID number and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. 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, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., 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.

FOR FURTHER INFORMATION CONTACT: The person listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP Number	Docket ID Number
PP 5F6904	EPA-HQ-OPP-2005-0157
PP 6E7144	EPA-HQ-OPP-2007-0020
PP 6F7134	EPA-HQ-OPP-2007-0178
PP 6F7145	EPA-HQ-OPP-2007-0193
PP 6E7132 PP 6E7133	EPA-HQ-OPP-2007-0300 EPA-HQ-OPP-2007-0300
PP 6E7153	EPA-HQ-OPP-2007-0301
PP 6E7167	EPA-HQ-OPP-2007-0302
PP 7E7187	EPA-HQ-OPP-2007-0303
PP 6E7151	EPA-HQ-OPP-2007-0308
PP 6E7150	EPA-HQ-OPP-2007-0309
PP 6E7097	EPA-HQ-OPP-2007-0311
PP 7E7183	EPA-HQ-OPP-2007-0312
PP 6E7081	EPA-HQ-OPP-2007-0338
PP 7E7172	EPA-HQ-OPP-2007-0339
PP 7F7190	EPA-HQ-OPP-2007-0366
PP 7F7169	EPA-HQ-OPP-2007-0377
PP 7E7204	EPA-HQ-OPP-2007-0398
PP 6F7161	EPA-HQ-OPP-2007-0029

III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in section 408(d)(2) of FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

New Tolerances

1. *PP 5F6904*. (Docket ID number EPA–HQ–OPP–2005–0157). ABERCO, Inc., 9430 Lanham-Severn Road, Seabrook, MD 20706, proposes to establish a tolerance for residues of the fungicide propylene oxide in or on food commodities: Grape, raisin at 1.0 parts per million (ppm); fig at 3.0 ppm and plum, prune, dried at 2.0 ppm. ABERCO has submitted an enforcement method for determination of residues of propylene oxide, propylene chlorohydrin, and propylene bromohydrin in nutmeats, cocoa, and dried spices. Contact: Tony Kish, telephone number: (703) 308–9943; e-mail address: *kish.tony@epa.gov*.

2. *PP 6E7144*. (Docket ID number EPA–HQ–OPP–2007–0020). Tamico, Inc., 1950 Lake Park Dr., Smyrna, GA 30080, proposes to establish import tolerances for residues of the fungicide thiram in or on food commodities: Banana, whole at 0.5 ppm and banana, pulp at 0.3 ppm. Banana samples were analyzed according to analytical method meth-100, revision #4 , ''Determination of Thiram in Raw Agricultural Commodities, Processed Commodities and Other Plant Material''. Detection and quantitation for thiram (as CS2) were conducted using gas chromatography (GC) employing sulfur-specific flame photometric detection (FPD). The limit of quantitation (LOQ) was 0.05 ppm. Contact: Bryant Crowe, telephone number: (703) 305–0025; e-mail address: *crowe.bryant@epa.gov*.

3. *PP 6F7134*. (Docket ID number EPA–HQ–OPP–2007–0178). Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the fungicide prothioconazole and its desthio metabolite in or on food commodities: Beet, sugar, roots at 0.25 ppm and beet, sugar, tops at 9.0 ppm. The analytical method for determining residues of concern in plant extract residues of prothioconazole and JAU6476-desthio and converts the prothioconazole to JAU6376-desthio and JAU6476-sulfonic acid. Following addition of internal standards the sample extracts are analyzed by liquid chromatography/tandem mass spectrometry (LC/MS/MS). Radiovalidation and independent laboratory validation have shown that the method adequately quantifies prothioconazole residues in treated

commodities. The analytical method for analysis of large animal tissues includes extraction of the residues of concern, followed by addition of an internal standard to the extract. The extract is then hydrolyzed to release conjugates, partitioned and analyzed by LC/MS/MS as prothioconazole, JAU6476-desthio and JAU6476-4-hydroxy. The method for analysis of milk eliminated the initial extraction step in the tissue method. Contact: Bryant Crowe, telephone number: (703) 305–0025; e-mail address: *crowe.bryant@epa.gov*.

4. *PP 6F7145*. (Docket ID number EPA–HQ–OPP–2007–0193). FMC Corporation, 1735 Market St., Philadelphia, PA 19203, proposes to establish a tolerance for residues of the herbicide carfentrazone-ethyl, (ethyl--2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and the metabolite carfentrazone-ethyl, chloropropionic acid (, 2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid) in or on food commodities: Grain, cereal, group 15 (except rice grain and sorghum grain at 0.10 ppm; rice, grain at 1.3 ppm; sorghum, grain at 0.25 ppm; grain, cereal, stover at 0.80 ppm; grain, cereal, straw at 3.0 ppm; soybean, seed at 0.10 ppm; barley, flour at 0.80 ppm; barley, bran at 0.80 ppm; millet, flour at 0.80 ppm; oat, flour at 0.80 ppm; rice, hulls at 3.5 ppm; rye, flour at 0.80 ppm; rye, bran at 0.80 ppm; wheat, bran at 0.80 ppm; wheat, flour at 0.80 ppm; wheat, middlings at 0.80 ppm; wheat, shorts at 0.80 ppm; wheat, germ at 0.80 ppm; aspirated grain fractions at 1.8 ppm; hog, meat at 0.10 ppm; hog, meat byproducts at 0.10 ppm; hog, fat at 0.10 ppm; poultry, meat byproducts at 0.10 ppm; and sugarcane at 0.15 ppm. The analytical method involves separate analyses for parent and its metabolites. The parent is analyzed by GC/electron capture detection (ECD). The metabolites are derivatized with boron trifluoride and acetic anhydride for analysis by GC/mass spectrometry detection (MSD) using selective ion monitoring. Contact: Joanne I. Miller, telephone number: (703) 305–6224; e-mail address: *miller.joanne@epa.gov*.

5. *PP 6E7132* and *6E7133*. (Docket ID number EPA–HQ–OPP–2007–0300). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the insecticide Z-cypermethrin, (S-cyano(3-phenoxyphenyl) methyl (±))(cis-trans 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate and its inactive R-isomers in or on food commodities: *PP 6E7132* - Rice, wild, grain at 1.50 ppm; okra at 0.20 ppm; safflower, seed at 0.20 ppm; and *PP 6E7133* - Fruit, citrus, group 10 at 0.25 ppm; citrus, dried, pulp at 0.50 ppm; and citrus, oil at 0.90 ppm. There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection (LOD) that allows monitoring of food with residues at or above the levels set in these tolerances (GC/ECD). Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

6. *PP 6E7153*. (Docket ID number EPA–HQ–OPP–2007–0301). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the herbicide chlorimuron-ethyl [ethyl 2-[[[[(4-chloro-6-methoxypyrimidin-2yl) amino]carbonyl] amino]sulfonyl] benzoate] in or on food commodities: Cranberry; bearberry; bilberry; lowbush berry; cloudberry; lingonberry; muntries; and partridgeberry at 0.02 ppm. The nature of residues of chlorimuron-ethyl is adequately understood and an acceptable analytical method is available for enforcement purposes. The LOQ allows monitoring of crops with chlorimuron-ethyl residues at or above the levels proposed in this tolerance. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

7. *PP 6E7167*. (Docket ID number EPA–HQ–OPP–2007–0302. Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the miticide bifenazate, (1-methylethyl 2-(4-methoxy[1,1'-biphenyl]-3-yl)hydrazinecarboxylate) and diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifenazate) in or on food commodities: Papaya, star apple, black sapote, mango, sapodilla, canistel, and mamey sapote at 6.0 ppm; lychee, longan, Spanish lime, rambutan, and pulasan at 4.0 ppm; feijoa, guava, jaboticaba, wax jambu, starfruit, passionfruit, and acerola at 0.9 ppm; caneberry subgroup 13A at 6.0 ppm; wild raspberry at 6.0 ppm; edible podded legume vegetable, subgroup 6A at 4.0 ppm; succulent shelled pea and bean, subgroup 6B at 0.3 ppm; and succulent shelled soybean at 0.3 ppm. As D3598, a significant metabolite, was found to interconvert readily to/from bifenazate, the analytical method is designed to convert all residues of D3598 to the parent compound (bifenazate) for analysis. The method utilizes reversed phase high performance liquid chromatography (HPLC) to separate the bifenazate from matrix derived interferences, and oxidative coulometric electrochemical detection for the identification and quantification of this analyte. Using this method, the LOQ was 0.05 ppm. The LOD for this method, which varies with matrix, is 0.005 ppm. The analytical method for bifenazate and its major metabolite D3598 in animal samples used the same principles as the plant method with minor modifications. However, in animal samples, a separate aliquot of the extract was used to determine residues of A1530 and its sulfate (combined) in milk and meat samples (these metabolites appeared to be significant in goat metabolism studies). The extract was subjected to acid hydrolysis to convert the sulfate conjugate to A1530 before it was quantified by HPLC using fluorescence or oxidative coulometric electrochemical detectors (OCED). Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

8. *PP 7E7187*. (Docket ID number EPA–HQ–OPP–2007–0303). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the fungicide fenhexamid, (N-2,3-dichloro-4-hydroxyphenyl)-1-methyl cyclohexene carboxamide) in or on food commodity asparagus at 0.02 ppm. An adequate method for purposes of enforcement of the proposed fenhexamid tolerance in plant commodities is available. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

9. *PP 6E7151*. (Docket ID number EPA–HQ–OPP–2007–0308). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the herbicide, flumioxazin, (2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione) in or on food commodities: Bushberry, subgroup 13B at 0.02 ppm; asparagus, aronia berry, buffalo currant, Chilean guava, European barberry, highbush cranberry, honeysuckle, jostaberry, Juneberry, lingonberry, Native currant, salal, sea buckthorn, and okra at 0.02 ppm; melon, subgroup 9A at 0.02 ppm; dry beans at 0.10 ppm; vegetable, fruiting, crop group 8 at 0.02 ppm; and nut, tree, crop group 14 at 0.02 ppm. Practical analytical methods for detecting and

measuring levels of flumioxazin have been developed and validated in/on all appropriate agricultural commodities and respective processing fractions. The LOQ of flumioxazin in the methods is 0.02 ppm which will allow monitoring of food with residues at the levels proposed for the tolerances. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

10. *PP 6E7150*. (Docket ID number EPA–HQ–OPP–2007–0309). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the insecticide etoxazole, (2-(2,6-difluorophenyl)-4-[4-(1,1-dimethylethyl)-2-ethoxyphenyl]-4,5-dihydrooxazole) in or on food commodities: hop, dried cones at 7.0 ppm; melon, subgroup 9A at 0.15 ppm; and cherry at 0.70 ppm. Practical analytical methods for detecting and measuring levels of etoxazole have been developed and validated in/on all appropriate agricultural commodities and respective processing fractions. The LOQ of etoxazole in the methods is 0.02 ppm which will allow monitoring of food with residues at the levels proposed for the tolerances. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

11. *PP 6E7097*. (Docket ID number EPA–HQ–OPP–2007–0311). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the fungicide tebuconazole, (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on food commodities: Vegetable, bulb, group 3 at 1.3 ppm; *Brassica*, leafy greens, subgroup 5B at 2.5 ppm; beet, garden, roots at 0.7 ppm; and beet, garden, leaves at 5.0 ppm. An enforcement method for plant commodities has been validated on various commodities. It has undergone successful EPA validation and has been submitted for inclusion in the Pesticide Analytical Manual, Volume II (PAM II). The animal method has also been approved as an adequate enforcement method. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

12. *PP 7E7183*. (Docket ID number EPA–HQ–OPP–2007–0312). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the fungicide triflumizole, (1-(1-((4-chloro-2-(trifluoromethyl) phenyl)imino)-′2-propoxyethyl)-1H-imidazole), and its metabolites containing the 4-chloro-2-trifluoromethylaniline moiety, calculated as the parent compound in or on food commodity leafy *Brassica* (subgroup 5B) at 20.0 ppm. The analytical method is suitable for analyzing crops for residues of triflumizole and its aniline containing metabolites at the proposed tolerance levels. The analytical method has been independently validated. Residue levels of triflumizole are converted to FA-1-1 by acidic and alkaline reflux, followed by distillation. Residues are then extracted and subjected to solid phase extraction (SPE) purification. Detection and quantitation are conducted by a GC equipped with nitrogen phosphorus detector, electron capture detector or mass spectrometry detection. The LOQ of the method has been determined at 0.05 ppm for the combined residues of triflumizole and FA-1-1 in mustard greens. The enforcement methodology has been submitted to the Food and Drug Administration (FDA) for publication in the PAM II. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

13. *PP 6E7081*. (Docket ID number EPA–HQ–OPP–2007–0338). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for combined residues of the insecticide flonicamid [N-(cyanomethyl)-4-(trifluoromethyl)-3-pyridinecarboxamide] and its metabolites TFNA [4-trifluoromethylnicotinic acid], TFNA-AM [4-trifluoromethylnicotinamide], TFNG [N-(4-trifluoromethylnicotinoyl)glycine] in or on food commodities: Vegetables, root, except sugarbeet, (subgroup 1B) at 0.45 ppm; radish, tops at 16.0 ppm; vegetables, tuberous and corm, (subgroup 1C) at 0.2 ppm; *Brassica*, leafy greens (subgroup 5B) at 16.0 ppm; turnip greens at 16.0 ppm; hop at 7.0 ppm; and okra at 0.4 ppm. Analytical methodology has been developed to determine the residues of flonicamid and its three major metabolites (TFNA, TFNG, and TFNA-AM) in various crops. The residue analytical method for the majority of crops includes an initial extraction with acetonitrile/deionized water (ACN/DI), followed by a liquid/liquid partition with ethyl acetate. The residue method for wheat straw is similar, except that a C18 solid phase extraction (SPE) is added prior to the liquid/liquid partition. The final sample solution is quantitated using LC equipped with a reverse phase column and a triple quadruple mass spectrometer (MS/MS). Contact: Sidney Jackson, telephone number: (703) 305–7610; *jackson.sidney@epa.gov*.

14. *PP 7E7172*. (Docket ID number EPA–HQ–OPP–2007–0339). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the fungicide fluopicolide, (2,6-dichloro-N-[[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl] benzamide) in or on food commodities: Vegetable, root and tuber, group 1 at 0.2 ppm; vegetable, leaves of root and tuber, group 2 at 12.0 ppm; vegetable, bulb, group 3 at 5.0 ppm; chive, fresh leaves at 5.0 ppm; chive, Chinese, fresh leaves at 5.0 ppm; daylily, bulb at 5.0 ppm; elegans hosta at 5.0 ppm; fritillaria, bulb at 5.0 ppm; fritillaria, leaves at 5.0 ppm; garlic, serpent, bulb at 5.0 ppm; kurrat at 5.0 ppm; lady's leek at 5.0 ppm; leek, wild at 5.0 ppm; lily, bulb at 5.0 ppm; onion, Beltsville bunching at 5.0 ppm; onion, Chinese, bulb at 5.0 ppm; onion, fresh at 5.0 ppm; onion, macrostem at 5.0 ppm; onion, pearl at 5.0 ppm; onion, potato, bulb at 5.0 ppm; onion, tree, tops at 5.0 ppm; shallot, bulb at 5.0 ppm; shallot, fresh leaves at 5.0 ppm; and *Brassica*, head and stem, subgroup 5A at 5.0 ppm. A practical analytical method utilizing LC and MSD is available and has been validated for detecting and measuring levels of fluopicolide in and on crops. The validated LOQ is 0.01 ppm. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

15. *PP 7F7190*. (Docket ID number EPA–HQ–OPP–2007–0366). Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, proposes to establish a tolerance for residues of the herbicide, pyraflufen-ethyl (ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-(1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate) and its acid metabolite, E-1 (2-chloro-5-(4-chloro-5-difluoromethoxy-(1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetic acid), expressed in terms of the parent in or on food commodities: Soybeans, forage at 0.05 ppm; soybeans, hay at 0.1 ppm; grass, forage, crop group 17 at 1.0 ppm; and grass, hay, crop group 17 at 1.2 ppm. Aqueous organic solvent extraction, column clean up, and quantitation by GC is used to measure and evaluate the chemical residues. Contact: Joanne I. Miller, telephone number: (703) 305–6224; e-mail address: *miller.joanne@epa.gov*.

16. *PP 7F7169*. (Docket ID number EPA–HQ–OPP–2007–0377). BASF Corporation, P.O. Box 13528, Research

Triangle Park, NC 27709, proposes to establish a tolerance for residues of the fungicide Boscalid (BAS 510F), [3-pyridinecarboxamide, 2-chloro-N-(4'-chloro(1,1'-biphenyl)-2-yl] in or on food commodities: Cotton, undelinted seed at 1.0 ppm and cotton, gin byproducts at 55.0 ppm. In plants, the parent residue is extracted using an aqueous organic solvent mixture followed by liquid/liquid partitioning and a column clean up. Quantitation is by GC using MS. In livestock, the residues are extracted with methanol. The extract is treated with enzymes in order to release the conjugated glucuronic acid metabolite. The residues are then isolated by liquid/liquid partition followed by column chromatography. The hydroxylated metabolite is acetylated followed by a column clean up. The parent and acetylated metabolite are quantitated by GC with ECD. Contact: Bryant Crowe, telephone number: (703) 305–0025; e-mail address: *crowe.bryant@epa.gov*.

17. *PP 7E7204*. (Docket ID number EPA–HQ–OPP–2007–0398). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to establish a tolerance for residues of the insecticide/miticide spirodiclofen,(3-(2,4-dichlorophenyl)-2-oxo-1-oxaspiro[4,5]dec-3-en-4-yl ester 2,2-dimethylbutanoate in or on food commodity hops, cones, dried at 30.0 ppm. Adequate analytical methodology using LC/MS/MS detection is available for enforcement purposes. Contact: Susan Stanton, telephone number: (703) 305–5218; e-mail address: *stanton.susan@epa.gov*.

Amendment to Existing Tolerances

1. *PP 5F6904*. (Docket ID number EPA–HQ–OPP–2005–0157). ABERCO, Inc., 9430 Lanham-Severn Road, Seabrook, MD 20706, proposes to amend the tolerances in 40 CFR 180.491 by deleting sections (a)(2) and (a)(4) for residues of the fungicide propylene oxide in or on the food commodities. These directions are described on the label and are no longer required in the tolerance expression. Contact: Tony Kish, telephone number: (703) 308–9943; e-mail address: *kish.tony@epa.gov*.

2. *PP 6F7161*. (Docket ID number EPA–HQ–OPP–2007–0029). Bayer CropScience, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, proposes to amend the tolerances in 40 CFR 180.473(a) to eliminate the reference to transgenic crops tolerant to glufosinate ammonium in section 180.473(a)(2) such that the crop tolerances listed under section 180.473(a) General support uses in all of the crops listed to include both conventional and transgenic crops and to delete sections 180.473 (a)(1) and 180.473 (a)(2). This notice clarifies the initial notice of filing published in the **Federal Register** of February 28, 2007 (72 FR 9000; FRL-8115–5). The tolerances for glufosinate-ammonium and its metabolites listed for the commodities under both subsections (1) and (2) are proposed to be placed in paragraph 180.473(a) General to read as follows: Tolerances are established for residues of glufosinate-ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt) and its metabolites expressed as butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt, 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid expressed as glufosinate free acid equivalents in or on the raw agricultural commodities: Almond, hulls at 0.50 ppm; apple at 0.05 ppm; aspirated grain fractions at 25.0 ppm; banana at 0.30 ppm; banana, pulp at 0.20 ppm; beet, sugar, molasses at 5.0 ppm; beet, sugar, roots at 0.9 ppm; beet, sugar, tops (leaves) at 1.5 ppm; bushberry subgroup 13B at 0.15 ppm; canola, meal at 1.1 ppm; canola, seed at 0.4 at ppm; cattle, fat at 0.40 ppm; cattle, meat at 0.15 ppm; cattle, meat byproducts at 6.0 ppm; corn, field forage at 4.0 ppm; corn, field, grain at 0.2 ppm; corn, field, stover at 6.0 ppm; cotton, gin byproducts at 15 ppm; cotton, undelinted seed at 4.0 ppm; egg at 0.15 ppm; goat, fat at 0.40 ppm; goat, meat at 0.15 ppm; goat, meat byproducts at 6.0 ppm; grape at 0.05 ppm; hog, fat at 0.40 ppm; hog, meat at 0 .15; hog, meat byproducts at 6.0 ppm; horse, fat at 0.40 ppm; horse, meat at 0.15 ppm; horse, meat byproducts at 6.0 ppm; Juneberry 0.10 ppm; lingonberry at 0.10 ppm; milk at 0.15 ppm; nut, tree, group 14 at 0.10 ppm; potato at 0.80 ppm; potato, chips at 1.60 ppm; potato granules and flakes 2.00 ppm; poultry, fat 0.15 ppm; poultry, meat at 0.15 ppm; poultry, meat byproducts 0.60 ppm; rice, grain at 1.0 ppm; rice, hull at 2.0 ppm; rice, straw at 2.0 ppm; salal at 0.10 ppm; sheep, fat at 0.40 ppm; sheep, meat at 0.15 ppm; sheep, meat byproducts at 6.0 ppm; soybean at 2.0 ppm and soybean, hulls at 5.0 ppm. An analytical method was developed to measure the glufosinate-ammonium and its metabolites in raw agricultural commodities by GC. Contact: Joanne I. Miller, telephone number: (703) 305–6224; e-mail address: *miller.joanne@epa.gov*.

3. *PP 6E7151*. (Docket ID number EPA–HQ–OPP–2007–0308). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540-6635, proposes to amend the tolerances in 40 CFR 180.568 for residues of the herbicide, flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione in or on the food commodity almond, nutmeats be deleted upon establishment of the crop group tolerance for nut, tree, Crop Group 14. Contact: Sidney Jackson, telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 13, 2007.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–12036 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0177; FRL–8134–8]

Experimental Use Permit; Receipt of Application; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA issued a notice in the **Federal Register** of April 11, 2007, concerning the receipt of an application for an experimental use permit (EUP) using mammalian gonadotropin releasing hormone to investigate the efficacy of reproductive control in fallow deer. This document is being issued to correct an error made by the applicant in the original submission.

FOR FURTHER INFORMATION CONTACT: Joanne Edwards, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6736; e-mail address: *edwards.joanne@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the notice a list of those who may be potentially affected by this action. 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–2007–0177. 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 Building), 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 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*.

II. What Does this Correction Do?

FR Doc. E7–6850 published in the **Federal Register** of April 11, 2007 (72 FR 18242) (FRL–8121–7) is corrected as follows:

On page 18243, under Unit **II. Background**, the third sentence should read as follows: Total quantity of active ingredient to be used is 21 milligrams (70 milliliters of the formulated product).

List of Subjects

Environmental protection, Experimental use permits.

Dated: June 12, 2007.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–12284 Filed 6–26–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

June 14, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Pub. L. No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 27, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit your all Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 or via Internet at *Cathy.Williams@fcc.gov* and Jasmeet Seehra, OMB Desk Officer, Office of Management and Budget (OMB), Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* or via fax at (202) 395–5167. If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC's PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0250.

Title: Sections 73.1207, 74.784 and 74.1284, Rebroadcasts.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or tribal government.

Number of Respondents: 6,062.

Estimated Time per Response: 30 minutes.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party requirement.

Total Annual Burden: 5,350 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1207 requires that licensees of broadcast stations obtain written permission from an originating station prior to retransmitting any program or any part thereof. A copy of the written consent must be kept in the station's files and made available to the FCC upon request. Section 73.1207 also specifies procedures that broadcast stations must follow when rebroadcasting time signals, weather bulletins, or other material from non-broadcast services.

47 CFR 74.784 requires licensees of low power television and TV translator stations to notify the FCC when rebroadcasting programs or signals of another station and to certify that written consent has been obtained from originating station. The FCC staff uses the data to ensure compliance with Section 325(a) of the Communications Act, as amended.

47 CFR 74.1284 requires that the licensee of a FM translator station obtain prior consent to rebroadcast programs of any FM broadcast station or other FM translator. The licensee must notify the Commission of the call letters of each station rebroadcast and must certify that written consent has been received from the licensee of that station.

The Commission is revising this information collection to consolidate rule Section 47 CFR 73.1207 into OMB control number 3060–0250. The rule section is currently approved under OMB control number 3060–0173.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–12111 Filed 6–26–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

June 19, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 27, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet K. Seehra, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3123, or via fax at 202–395–5167 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., Washington, DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1039.

Title: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act—Review Process, WT Docket No. 03–128.

Form Nos.: FCC Forms 620 and 621.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 12,000 respondents; 7,800 responses.

Estimated Time per Response: 5–10 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 123,888 hours.

Total Annual Cost: $9,225,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: The Commission will submit this collection as an extension (no change in reporting, recordkeeping requirements and/or third party disclosure requirements) to the OMB after this 60 day comment period to obtain the full three-year clearance from them. There is no change to the estimated average burden (hours and costs) or the number of respondents.

This data is used by FCC staff, State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO), and the Advisory Council of Historic Preservation (ACHP) to take such action as may be necessary as to ascertain whether a proposed action may affect historic properties that are listed or eligible for listing the National Register as directed by Section 106 of the National Historic Preservation Act (NHPA) and the Commission's Rules.

FCC Form 620, New Tower (NT) Submission Packet is to be completed by or on behalf of applicants to construct new antenna support structures by or for the use of licensees of the FCC. The Packet is to be submitted to the State Historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, before any construction or other installation activities on the site begin. Failure to provide the Submission Packet and complete the review process under Section 106 of the National Historic Preservation Act (''NHPA'') prior to beginning construction may violate Section 110(k) of the NHPA and the Commission's rules.

FCC Form 621, Collocation (CO) Submission Packet is to be completed by or on behalf of applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the FCC. The Packet (including Form CO and attachments) is to be submitted to the State Historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, before any construction or other installation activities on the site begin. Failure to provide the Submission Packet and complete the review process under Section 106 of the National Historic Preservation (''NHPA'') prior to the beginning construction or other installation activities may violate Section 110(k) of the NHPA and the Commission' rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–12437 Filed 6–26–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011516–006.

Title: Voluntary Intermodal Sealift Discussion Agreement.

Parties: American President Lines, Ltd.; CP Ships USA, LLC; Crowley Liner Services, Inc.; Crowley Marine Services, Inc.; Farrell Lines, Inc.; Maersk Line, Limited; Matson Navigation Company; and Totem Ocean Trailer Express, Inc.

Filing Party: Gerald A. Malia, Esq.; 1660 L Street, NW.; Suite 506; Washington, DC 20036.

Synopsis: The amendment would add Maersk Line, Inc. and American Roll-On Roll-Off Carrier as parties; delete Totem Ocean Trailer Express; change CP Ships USA, LLC to Hapag-Lloyd USA, LLC; and update the addresses for the Crowley companies, Farrell Lines, and Maersk Line, Limited.

Agreement No.: 011733–023.

Title: Common Ocean Carrier Platform Agreement.

Parties: A.P. Moller-Maersk A/S; CMA CGM; Hamburg-Süd; Hapag-Lloyd AG; Mediterranean Shipping Company S.A.; and United Arab Shipping Company (S.A.G.) as shareholder parties, and Alianca Navegacao e Logistica Ltda.; Compania Sud Americana de Vapores, S.A.; Companhia Libra de Navegacao; COSCO Container Lines Co., Ltd.; Emirates Shipping Lines; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd; Kawasaki Kisen Kaisha, Ltd.; MISC Berhad; Mitsui O.S.K. lines Ltd.; Nippon Yusen Kaisha; Safmarine Container Lines N.V.; Senator Lines GmbH; Norasia Container Lines Limited; and Tasman Orient Line C.V. as non-shareholder parties.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment will reflect that non-ocean common carrier entities will be permitted to own voting stock in INTTRA, Inc., the entity formed pursuant to the agreement.

By Order of the Federal Maritime Commission.

Dated: June 22, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–12422 Filed 6–26–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder-Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Rubby Express International Corp., 8130 NW 71st Street, Miami, FL 33166. Officer: Maria Rubiela Alzate, President (Qualifying Individual).

Gold Cargo Freight, Corp., 8237 NW 68 Street, Miami, FL 33166. Officers: Jorge A. Troconis, President (Qualifying Individual), Rossana Troconis, Director.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Worldwide 750 Inc., 8478 NW 72nd Street, Miami, FL 33166. Officer: Jose G. Falcon, President (Qualifying Individual).

CM Cargo International, LLC., 7818 NW 46 Street, Miami, FL 33166. Officer: Karin Chakour, President (Qualifying Individual).

Rihua Shipping USA, 333 West Garvey Avenue, #B, PMB 322, Monterey Park, CA 91754. Officers: Fe M. Maloles, Treasurer (Qualifying Individual), Jingbo (Angela) Zhu, President.

Meehan International Logistics, Inc., 152–31 135th Avenue, Jamaica, NY 11434. Officers: John J. Meehan, III, President (Qualifying Individual), Suzanne R. Meehan, Vice President.

Valgor Business Consultants Inc., 3425 Garden Ln., Miramar, FL 33023. Officer: Otto J. Valdes, President (Qualifying Individual).

Independent Ocean Services, Inc., 18 East 48th Street, PH, New York, NY 10162. Officers: Bernard G. Lugez, President (Qualifying Individual), Bruno Siemiesz, Vice President.

Ocean Freight Forwarder-Ocean Transportation Intermediary Applicants:

Neutral Sea, LLC, 1200 NW 78th Avenue, Suite 301, Doral, FL 33126. Officers: John T. Mendez, Vice President (Qualifying Individual), Alexander Teller, CEO.

Masters Shipping Inc., 2196 Fescue Drive, Aurora, IL 60504. Officers: Hani Zaki, Manager (Qualifying Individual), Eman Abdelhafez, President.

Ocean Shipping Line, 400 Continental Blvd., 6th Floor, El Segundo, CA 90245. Officer: Sam Ikwueme, CEO (Qualifying Individual).

Dated: June 22, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–12439 Filed 6–26–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 12, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. BC Qualified Family Partnership, LLLP, Naples, Florida, to acquire shares of Marco Community Bancorp, Inc., and thereby indirectly acquire Marco Community Bank, both of Marco Island, Florida.

2. LF QFP, LLLP, Naples, Florida, to acquire shares of Marco Community Bancorp, Inc., and indirectly acquire Marco Community Bank, both of Marco Island, Florida.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Brandon J. Berkley, Denver, Colorado; Cara D. Berkley, Overland Park, Kansas; and Claudia D. Berkley, Downs, Kansas as members of the Berkley family group; to retain ownership of B Bank, Inc., and thereby indirectly retain shares of State Bank of Downs, both of Downs, Kansas.

Board of Governors of the Federal Reserve System, June 22, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–12418 Filed 6–26–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval,

pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 23, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. BancTrust Financial Group, Mobile, Alabama, to merge with Peoples BancTrust Company, Inc., and thereby indirectly acquire Peoples Bank & Trust Company, both of Selma, Alabama.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of Greater Bay Bancorp, East Palo Alto, California, and thereby indirectly acquire Greater Bay Bank, N.A., Palo Alto, California.

Board of Governors of the Federal Reserve System, June 22, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–12417 Filed 6–26–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Preparedness and Response; HHS Public Health Emergency Medical Countermeasures Enterprise Implementation Plan for Chemical, Biological, Radiological, and Nuclear Threats

AGENCY: Office of the Assistant Secretary for Preparedness and Response, Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: The Department of Health and Human Services (HHS) published a document in the **Federal Register** of June 20 2007, concerning the establishment of the National Biodefense Science Board. The document should have provided additional information indicating the timeframe the nomination for membership will remain open.

Correction

In the **Federal Register** of June 20, 2007, in FR vol. 72, No. 118, on page 34015, in the second column, correct the **SUMMARY** section and insert an the following caption to read as follows:

''Resumes or Curriculum Vitae from qualified individuals who wish to be considered for membership on the Board are currently being accepted. The nomination period will remain open for thirty (30) days from the initial publication of this notice; nomination period will close on 20 July 2007. To submit a resume or curriculum vitae send e-mail to *nbsbnominations@hhs.gov*.''

Dated: June 20, 2007.

Gerald Parker,

Principal Deputy Assistant Secretary.

[FR Doc. E7–12406 Filed 6–26–07; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control/Initial Review Group (NCIPC/IRG)

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 following meeting of the aforementioned committee:

Times and Date: 8 a.m.–9 a.m., July 30, 2007 (Open). 9 a.m.–5 p.m., July 30, 2007 (Closed).

Place: CDC, 1600 Clifton Road, NE., Building 19, Atlanta, Georgia 30333.

Status: Portions of 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 Section 10(d) of Public Law 92–463.

Purpose: This group is charged with providing advice and guidance to the Secretary, Department of Health and Human Services; and the Director, CDC; concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including state and local government agencies, to conduct specific injury research that focuses on prevention and control.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of individual research grant and cooperative agreement applications submitted in response to one Fiscal Year 2007 Requests for Applications related to the following individual research announcement: TS07–001, ''The Great Lakes Human Health Effects Research Program.''

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Tony Johnson, NCIPC/ERPO, CDC, 4770 Buford Highway, NE., M/S K02, Atlanta, Georgia 30341–3724, telephone 770/488–1240.

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.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–12407 Filed 6–26–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), (**Federal Register,** Vol. 70, No. 249, pp. 77159–77168, dated Thursday, December 29, 2005) is amended to reflect the establishment of the Office of Beneficiary Information Services.

Part F. is described below:

- Section F.10. (Organization) reads as follows:

1. Office of External Affairs (FAC).
2. Center for Beneficiary Choices (FAE).
3. Office of Legislation (FAF).
4. Center for Medicare Management (FAH).
5. Office of Equal Opportunity and Civil Rights (FAJ).
6. Office of Research, Development, and Information (FAK).
7. Office of Clinical Standards and Quality (FAM).
8. Office of the Actuary (FAN).
9. Center for Medicaid and State Operations (FAS).
10. Office of the Boston Regional Administrator (FAU1).
11. Office of the New York Regional Administrator (FAU2).
12. Office of the Philadelphia Regional Administrator (FAU3).
13. Office of the Atlanta Regional Administrator (FAV4).
14. Office of the Chicago Regional Administrator (FAW5).
15. Office of the Dallas Regional Administrator (FAV6).
16. Office of the Kansas City Regional Administrator (FAW7).
17. Office of the Denver Regional Administrator (FAX8).
18. Office of the San Francisco Regional Administrator (FAX9).
19. Office of the Seattle Regional Administrator (FAXX).
20. Office of Operations Management (FAY).
21. Office of Information Services (FBB).
22. Office of Financial Management (FBC).
23. Office of Strategic Operations and Regulatory Affairs (FGA).
24. Office of E-Health Standards and Services (FHA).
25. Office of Acquisition and Grants Management (FKA).
26. Office of Policy (FLA).
27. Office of Beneficiary Information Services (FMA).

• Section F.20. (Functions) reads as follows:

27. Office of Beneficiary Information Services (FMA).

• Develops, implements, and manages the national Medicare toll-free telephone service contractors, including Medicare intermediary and carrier call center operations.

• Develops integrated national strategies, tools, and techniques for improving telephone and Medicare beneficiary customer services.

• Designs and develops national oversight standards for call center and Medicare beneficiary customer service contractors. Evaluates, assesses, and monitors performance of contractors in order to ensure compliance with contract requirements and the Federal Managers' Financial Integrity Act.

• Analyzes call center and Medicare beneficiary customer service operational data so as to establish trends and best practices for use in the development of national polices, legislation, national reports, presentations, and briefings for all levels of management in CMS for internal and external use.

• Develops, implements, and oversees the national implementation of Medicare contractor generated beneficiary communications and related services; e.g., the Medicare Summary Notice.

• Develops policy, regulations, and legislative directives affecting Medicare contractor beneficiary customer services and develops program instructions to put legislative directives into operation.

• Works with the industry to keep apprised of state-of-the-art customer service strategies and technological advances in call center/network infrastructures in order to ensure continuous improvements in communications and processes.

• Serves as the national spokesperson on call center operations and ensures translation and understandable presentation of technical materials.

• Manages and maintains the Agency's public Web sites to ensure the presentation of accurate, timely, relevant, understandable, and easily accessible information.

• Coordinates the formulation of Web site policies, strategies, goals, and standards for *http://www.medicare.gov* and *http://www.cms.hhs.gov.*

• Publishes instructional information for Agency's public Web site developers including functional specifications to facilitate program design, implementation, evaluation, revision, and/or update.

• Manages Web site information display and dissemination strategies.

Dated: June 18, 2007.

Karen Pelham O'Steen,

Director, Office of Operations Management, Centers for Medicare & Medicaid Services.

[FR Doc. E7–12359 Filed 6–26–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–28311]

Navigation Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Navigation Safety Advisory Council (NAVSAC). NAVSAC provides advice and makes recommendations to the Secretary on a wide range of issues related to the prevention of collisions, rammings, and groundings. This includes, but is not limited to: Inland and International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

DATES: Application forms should reach us on or before September 1, 2007.

ADDRESSES: You may request an application form by writing to Commandant (CG–3PWM–1), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; by calling 202–372–1532; or by faxing 202–372–1929. Send your application in written form to the above street address. This notice and the application form are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mike Sollosi, Executive Director of NAVSAC, or John Bobb, Assistant to the Executive Director, telephone 202–372–1532, fax 202–372–1929.

SUPPLEMENTARY INFORMATION: The Navigation Safety Advisory Council (NAVSAC) is a Federal advisory committee under 5 U.S.C. App. 1. NAVSAC provides advice and makes recommendations to the Secretary of Homeland Security on a wide range of issues related to the prevention of collisions, rammings, and groundings. This includes, but is not limited to: Inland and International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

NAVSAC meets at least once a year at Coast Guard Headquarters, Washington, DC or another location selected by the Coast Guard. It may also meet for extraordinary purposes. Its subcommittees and working groups may meet to consider specific problems as required.

Selected individuals will serve as either a Special Government Employee (SGE) or a Representative Member. An SGE Member is an officer or employee of the executive or legislative branch who is retained, designated, appointed, or employed to perform temporary duties (either on a full-time or intermittent basis) for not to exceed 130 days during any period of 365 consecutive days. The definition of SGE also includes individuals in certain

miscellaneous positions, who are deemed SGEs without regard to the number of days of service. In general, SGEs provide Federal advisory committees with their own best independent judgment based on their individual expertise. (See 18 U.S.C. 202(a).)

A Representative Member is an individual who is not a Federal employee (or a Federal employee who is attending in a personal capacity), who is selected for membership on a Federal advisory committee for the purpose of obtaining the point of view or perspective of an outside interest group or stakeholder interest. While representative members may have expertise in a specific area, discipline, or subject matter, they are not selected solely on the basis of this expertise, but rather are selected to represent the point of view of a group or particular interest. A representative member may represent groups or organizations, such as industry, labor, consumers or any other recognizable group of persons having an interest in matters before the committee.

We will consider applications for seven positions that expire or become vacant in November 2007. Applications will be considered from persons representing, insofar as practical, the following groups: Two persons from among recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety; three persons from among professional mariners, recreational boaters and the recreational boating industry; one person with an interest in maritime law; and one person who is a Federal or State official with responsibility for vessel and port safety.

Organizations having an active interest in the Rules of the Road and vessel and port safety are considered to include organizations representing vessel owners and operators of vessels operating on international waters and/or the inland waters of the United States; the Federal and State maritime academies; maritime education and training institutions teaching Rules of the Road, navigation, and electronic navigation; and organizations established to facilitate vessel movement and navigational safety. Members from these organizations are appointed to express the viewpoint of the organizations listed above and are SGEs as defined in section 202(a) of title 18, United States Code and will not be appointed as Representative Members.

Professional mariners are considered to include actively working or retired mariners experienced in applying the Inland and/or International Rules as masters or licensed deck officers of vessels operating on international waters or the inland waters of the United States, and federal or state licensed pilots. Recreational boaters and the recreational boating industry are specifically identified groups that members may represent. Members from these groups are appointed to express the viewpoint of the groups listed above in which they serve or have served and are not SGEs as defined in section 202(a) of title 18, United States Code and will be appointed as Representative Members.

Individuals with an interest in maritime law are SGEs as defined in section 202(a) of title 18, United States Code and will not be appointed as Representative Members. Individuals who are Federal or State officials with a responsibility for vessel and port safety are not SGEs as defined in section 202(a) of title 18, United States Code and will be appointed as Representative Members.

All individuals meeting the above requirements are invited to apply. Each member serves for a term of 3 years. A few members may serve consecutive terms. All members serve at their own expense and receive no salary but receive reimbursement for travel expenses and per diem expenses from the Federal Government.

In support of the policy of the Coast Guard on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected as a member who represents the general public, we will require you to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in it to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: June 8, 2007.

W.A. Muilenburg,

Captain, U.S. Coast Guard, Acting Director of Waterways Management.

[FR Doc. E7–12365 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Revision of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection under Review: Form I–821, Application for Temporary Protected Status; OMB Control No. 1615–0043.

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 March 7, 2007, at 72 FR 10239 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 July 27, 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 1615–0043 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:* Revision of an existing collection.

(2) *Title of the Form/Collection:* Application for Temporary Protected Status.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–821. 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. The information required on the Form I–821 is necessary in order for USCIS to make a determination that the applicant meets the TPS eligibility requirements and conditions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 335,333 responses at 1 hour and 30 minutes (1.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 502,999 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=29227b58fa16e010VgnVCM1000000ecd190aRCRD&vgnextchannel=29227b58fa16e010VgnVCM1000000ecd190aRCRD.*

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: June 21, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–12403 Filed 6–26–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5157–N–01]

Mortgagee Review Board; Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with Section 202(c) of the National Housing Act, this notice advises of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: David E. Hintz, Secretary to the Mortgagee Review Board, 451 Seventh Street, Portals 200, SW, Room B–133, Washington, DC 20410–8000, telephone: (202) 708–3856, extension 3594. A Telecommunications Device for Hearing- and Speech-Impaired Individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by Section 142 of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101–235, approved December 15, 1989), requires that HUD ''publish a description of, and the cause for, administrative action against a HUD-approved mortgagee'' by the Department's Mortgagee Review Board (Board). In compliance with the requirements of Section 202(c)(5), this notice advises of administrative actions that have been taken by the Board from October 18, 2005, to March 26, 2007.

1. A&E Mortgage Company, LLC, Roselle, New Jersey, [Docket No. 02–1971 MR]

Action: Settlement Agreement signed September 7, 2006. Without admitting wrongdoing or fault, A&E Mortgage Company, LLC (A&E) agreed to pay HUD an administrative payment in the amount of $300,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where A&E: Used falsified and/or conflicting documents in the origination of eight HUD/FHA-insured mortgages; failed to ensure loan applications were taken by authorized employees; and used a loan officer contract which required the loan officer to pay her own expenses.

2. Atlantic Coast Mortgage Services, Pleasantville, NJ [Docket No. 06–6026–MR]

Action: Settlement Agreement signed February 8, 2007. Without admitting liability or fault, Atlantic Coast Mortgage Services (Atlantic) agreed to pay HUD an administrative payment in the amount of $9,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Atlantic: Failed to ensure that one of its employees worked exclusively for it; and failed to implement and maintain a Quality Control Plan in compliance with HUD/FHA requirements.

3. BSM Financial LP dba Banksource Mortgage, Addison, TX [Docket No. 05–5047–MR]

Action: Settlement Agreement signed October 4, 2006. Without admitting liability or fault, BSM Financial LP dba Banksource Mortgage (BSM) agreed to: Waive all insurance benefits or indemnify HUD for any losses on 15 HUD/FHA-insured loans; within 60 days of the effective date of the settlement agreement, provide documentation sufficient to demonstrate that BSM complied with HUD/FHA requirements relating to local health authority approval of private or cooperative water and sewage disposal systems with respect to three properties. If BSM failed to provide the documents within the timeframe agreed to, BSM would waive all insurance benefits or indemnify HUD for any losses that may be incurred in relations to the three loans if HUD is unable to sell the referenced properties subject to FHA insurance because of problems with the water and/or septic systems; pay HUD $49,784 which represents the aggregate amount by which the principal balances of eight loans were over-insured at the time of commitment; and pay HUD an administrative payment in the amount of $150,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where BSM: Failed to remit Upfront Mortgage Insurance Premiums in a timely manner; failed to implement and maintain a Quality Control Plan that complied with HUD/FHA requirements; failed to properly verify, document and/or calculate income used in loan qualification in accordance with HUD/FHA requirements; failed to document the source of funds required to close and/or pay off debts, or there were

insufficient funds verified to close and/or pay off debts; calculated borrowers' total mortgage payments (including principal, interest, taxes and hazard insurance) using real estate taxes that were understated and, in some cases, also improperly omitted debts when assessing loan qualification; failed to comply with HUD/FHA requirements regarding qualification for streamline refinance transactions; approved loans with ratios exceeding HUD/FHA benchmark guidelines without compensating factors or without adequate compensating factors; allowed credit reports and/or income to asset verification forms and documentation to pass through the hands of third parties and, in certain cases, falsely certified that the documents were requested and received directly by BSM from the providers and/or that the documents received were true copies of the originals; allowed a non-purchasing spouse to take an ownership interest in a HUD/FHA-insured property, in violation of mortgage eligibility requirements; failed to ensure that property that was proposed or under construction was eligible for HUD/FHA mortgage insurance; closed loans in excess of the maximum allowable amount resulting in over-insured mortgages; failed to comply with Construction-Permanent Loan Program requirements; failed to ensure that the buyer, seller and/or settlement agent completed HUD–1 Addendum certifications; allowed one of its underwriters to also perform work for a manufactured housing seller; and used falsified documents and/or documents that contained unresolved discrepancies in the origination of HUD/FHA-insured mortgage loans.

4. Citrus State Mortgage, Incorporated, Mount Dora, FL [Docket No. 05–5079–MR]

Action: Settlement Agreement signed September 15, 2006. Without admitting liability or fault, Citrus State Mortgage, Incorporated (Citrus) and its President agreed to pay HUD an administrative payment in the amount of $35,000. Citrus also agreed not to reapply for reinstatement as an FHA-approved lender until March 1, 2008.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Citrus: Paid prohibited referral fees to another entity controlled by one of the Citrus's underwriters; paid its underwriters prohibited commission payments; charged prohibited document preparation fees to an entity owned and controlled by one of Citrus's underwriters; and failed to develop and implement a Quality Control Plan and failed to perform a Quality Control review of two loans that went into default within the first six months.

5. Colban Funding, Incorporated, Endwell, NY [Docket No. 04–4587–MR]

Action: On October 18, 2005, the Board issued a letter to Colban Funding, Incorporated (Colban) withdrawing its HUD/FHA approval for three years. The Board also voted to impose a civil money penalty in the amount of $76,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Colban: Violated HUD/FHA third party restrictions by allowing non HUD/FHA-approved mortgage brokers to participate in the origination of HUD/FHA-insured mortgages; falsely certified on forms HUD–92900–A, Addendum to the Uniform Residential Loan Application that the information contained in the Uniform Residential Loan Application and the Addendum was obtained directly from the borrower by a full-time employee of Colban or its duly authorized agent; failed to identify all of the HUD/FHA-approved lenders involved in the origination of HUD/FHA insured mortgage loans on HUD–92900–A and in HUD's database system; failed to provide evidence that, where faxed documents were used, original verification documents were received and reviewed; failed to ensure that borrowers met the three percent minimum required cash investment; failed to provide adequate analysis or data verification of prior sales that occurred within one year of the appraisal report for three HUD/FHA-insured loans; failed to include and/or adequately evaluate borrower's debt when underwriting loans; failed to adequately document the source and transfer of funds used for the downpayment and/or closing costs; failed to identify incorrect and inconsistent information on the HUD–1 Settlement Statement that affected conditions under which the loan was closed.

6. Colony Mortgage Corporation, Fairview Park, OH [Docket No. 05–5057–MR]

Action: Settlement Agreement signed August 22, 2006. Without admitting liability or fault, Colony Mortgage Corporation, (Colony) agreed to pay HUD an administrative payment in the amount of $38,000. Colony also agreed to indemnify HUD for any losses on two loans.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Colony: Violated third party origination restrictions by sponsoring loans from an unapproved entity; caused a false certification on form HUD–92900–A; failed to document the source and/or adequacy of funds for the downpayment and/or closing costs; failed to properly verify the borrower's income and/or stable employment history; failed to ensure that borrowers were not suspended, debarred or otherwise excluded from participating in the Department's programs; and failed to develop and implement a Quality Control Plan in accordance with HUD/FHA requirements.

7. Faith Financial Group, Incorporated, Miami Lakes, FL [Docket No. 05–5041–MR]

Action: Settlement Agreement signed October 20, 2006. Without admitting liability or fault, Faith Financial Group, Incorporated (Faith) agreed to pay HUD an administrative payment in the amount of $8,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Faith: Failed to adopt, implement and maintain a Quality Control Plan in compliance with HUD/FHA requirements; and failed to ensure that its employees worked exclusively for Faith.

8. First Source Financial USA, Incorporated, Las Vegas, NV [Docket No. 06–6009 MR]

Action: On March 26, 2007, First Source Financial USA, Incorporated, Las Vegas, NV was served with the Government's Complaint for Civil Money Penalty in the amount of $258,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where First Source Financial USA, Incorporated (First Source): Submitted false information in loan packages to HUD for HUD/FHA mortgage insurance; and engaged in prohibited net branching and prohibited loan origination arrangements.

9. Homewide Lending Corporation, City of Industry, CA [Docket No. 05–5062–MR]

Action: Settlement Agreement signed October 2, 2006. Without admitting liability or fault, Homewide Lending Corporation (Homewide) agreed to pay

HUD an administrative payment in the amount of $48,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Homewide: Failed to implement and maintain a Quality Control Plan in compliance with HUD/FHA requirements (repeat finding); submitted false and/or conflicting income and employment documentation to originate HUD/FHA-insured loans; allowed real estate agents to hand-carry Verification of Employment in violation of HUD/FHA requirements; violated HUD/FHA third party origination restrictions; and submitted false gift or budget documentation to originate HUD/FHA-insured loans.

10. Moreland Financial Corporation, Fort Washington, PA [Docket No. 04–4433–MR]

Action: On January 17, 2007, the Board issued a letter to Moreland Financial Corporation (Moreland) withdrawing Moreland's FHA-approval.

Cause: The Board took this action because Moreland failed to pay a civil money penalty in the amount of $22,000 previously imposed by the Board.

11. Shore Financial Services, Incorporated, Birmingham, MI [Docket No. 06–6017 MR]

Action: Settlement Agreement signed January 24, 2007. Without admitting liability or fault, Shore Financial Services, Incorporated (Shore) agreed to pay HUD a civil money penalty in the amount of $29,500. Shore also agreed to indemnify HUD for any losses on four loans.

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Shore: Failed to ensure that loans that went into default within the first six months were reviewed as part of its Quality Control procedure; failed to document the source of Earnest Money Deposit funds, or funds to close; failed to document a stable two-year employment history for the borrowers; failed to ensure that borrower met the minimum credit requirements; and failed to reconcile incongruities in appraisals prior to submission to HUD, and/or accepted incomplete appraisal reports that did not support the final value consideration.

12. Towne Mortgage and Realty, Sterling Heights, MI [Docket No. 06–6033–MR]

Action: Settlement Agreement signed February 1, 2007. Without admitting liability or fault, Towne Mortgage (Towne) agreed to pay HUD an administrative payment of $26,601.37 ($20,601.37 as indemnification for two loans and $6,000 as an administrative payment).

Cause: The Board took this action based on the following violations of HUD/FHA requirements in the origination of HUD/FHA-insured loans where Towne: Failed to ensure borrowers met minimum credit requirements; and failed to properly verify borrower's income and/or stability of income.

13. USA Home Loans, Incorporated, Towson, MD [Docket No. 06–6029–MR]

Action: On January 17, 2007, the Board issued a letter of reprimand to USA Home Loans, Incorporated (USA Home). The Board also imposed a civil money penalty in the amount of $2,000.

Cause: The Board took this action because USA Home used misleading advertising regarding the FHA Single Family Mortgage Insurance Premium refund program.

Dated: June 14, 2007.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. E7–12374 Filed 6–26–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Construction of Residential Units in Palm Beach County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of an incidental take permit (ITP) and Habitat Conservation Plan (HCP). Tierra del Sol at Jupiter, LLC (Applicant) request an ITP pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicant anticipates taking about 0.54 acre of foraging and sheltering habitat occupied by the threatened Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) incidental to partial land clearing of their 4.07-acre lot and subsequent commercial and residential construction and supporting infrastructure in Palm Beach County, Florida (Project). The Applicant's HCP describes the mitigation and minimization measures proposed to address the effects of the Project on the Florida scrub-jay.

DATES: We must receive your written comments on the ITP application and HCP on or before July 27, 2007.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section below for information on how to submit your comments on the ITP application and HCP. You may obtain a copy of the ITP application and HCP by writing to: South Florida Ecological Services Field Office, Attn: Permit number TE154813–0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida 32960–3559. In addition, we will make the ITP application and HCP available for public inspection by appointment during normal business hours at the South Florida Ecological Services Office at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Trish Adams, Fish and Wildlife Biologist, South Florida Ecological Services Office (see **ADDRESSES**), telephone: 772–562–3909, ext. 232.

SUPPLEMENTARY INFORMATION: If you wish to comment on the ITP application and HCP, you may submit comments by any one of several methods. Please reference permit number TE154813–0 in such comments. You may mail comments to the Service's South Florida Ecological Services Office (see **ADDRESSES**). You may also e-mail your comments to *trish_adams@fws.gov*. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand deliver comments to the South Florida Ecological Service Office (see **ADDRESSES**).

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, 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.

Construction for the Project will take place within Section 8, Township 41 South, Range 43 East, Jupiter, Palm Beach County, Florida. This property is within scrub-jay occupied habitat.

The Applicant will place 0.99 acre of upland habitat, 0.68 acre of which is occupied by scrub-jay, on their 4.07-acre lot in a conservation easement which will be enhanced and managed for scrub-jays. The conservation easement will be deeded to Palm Beach County

and will become part of the Jupiter Ridge Natural Area. In order to minimize take on-site the Applicant proposes to mitigate for the loss of 0.54 acre of scrub-jay habitat by contributing a total of $94,112.34 to the Florida Scrub-jay Conservation Program Fund administered by The Nature Conservancy. Funds in this account are earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management. In addition, the Applicant will contribute $10,000 to the County's Natural Areas Stewardship Endowment Fund to provide for the perpetual management and maintenance of the preserve.

The Service has determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. Low-effect HCPs are those involving (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If it is determined that those requirements are met, the ITP will be issued for the incidental take of the Florida scrub-jay. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Authority: This notice is provided pursuant to Section 10 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: June 21, 2007.

Paul Souza,

Field Supervisor, South Florida Ecological Services Field Office.

[FR Doc. E7–12424 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Construction of a Single-Family Home in Charlotte County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of an incidental take permit (ITP) and Habitat Conservation Plan (HCP). Bill Henshaw (Applicant) requests an ITP pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicant anticipates taking about 0.25 acre of foraging and sheltering habitat occupied by the threatened Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) incidental to lot preparation for the construction of a single-family home and supporting infrastructure in Charlotte County, Florida (Project). The Applicant's HCP describes the mitigation and minimization measures proposed to address the effects of the Project on the Florida scrub-jay.

DATES: We must receive your written comments on the ITP application and HCP on or before July 27, 2007.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section below for information on how to submit your comments on the ITP application and HCP. You may obtain a copy of the ITP application and HCP by writing to: South Florida Ecological Services Field Office, Attn: Permit number TE154810–0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida, 32960–3559. In addition, we will make the ITP application and HCP available for public inspection by appointment during normal business hours at the South Florida Ecological Services Office at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Trish Adams, Fish and Wildlife Biologist, South Florida Ecological Services Office (see **ADDRESSES**), telephone: 772/562–3909, ext. 232.

SUPPLEMENTARY INFORMATION: If you wish to comment on the ITP application and HCP, you may submit comments by any one of several methods. Please reference permit number TE154810–0 in such comments. You may mail comments to the Service's South Florida Ecological Services Office (see **ADDRESSES**). You may also e-mail your comments to *trish_adams@fws.gov*. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand deliver comments to the South Florida Ecological Services Office (see **ADDRESSES**).

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, 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.

Residential construction for the Henshaw HCP will take place within Section 11, Township 41, Range 20, Englewood, Charlotte County, Florida, at 10239 Castanet Avenue. This lot is within scrub-jay occupied habitat.

The lot encompasses about 0.25 acre, and the footprint of the home, infrastructure, and landscaping precludes retention of scrub-jay habitat on this lot. In order to minimize take onsite the Applicant proposes to mitigate for the loss of 0.25 acre of scrub-jay habitat by contributing a total of $18,113 to the Florida Scrub-jay Conservation Fund administered by The Nature Conservancy or a Service approved conservation bank. The Conservation Fund is earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

The Service has determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. Low-effect HCPs are those involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If it is determined that those requirements are met, the ITP will be issued for the

incidental take of the Florida scrub-jay. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Authority: This notice is provided pursuant to Section 10 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: June 21, 2007.

Paul Souza,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. E7–12452 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Running Buffalo Clover (*Trifolium stoloniferum*) Recovery Plan Revision

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce availability of the approved revised recovery plan for running buffalo clover (*Trifolium stoloniferum*). This species is federally listed as endangered under the Endangered Species Act of 1973, as amended (Act).

ADDRESSES: You may obtain a copy of the recovery plan by any of the following means:

1. *World Wide Web: http://midwest.fws.gov/endangered;* or
2. *U.S. mail or in-person pickup:* Field Supervisor, U.S. Fish and Wildlife Service, 6950 Americana Parkway, Suite H, Reynoldsburg, OH 43068–4127; telephone, (614) 469–6923.

FOR FURTHER INFORMATION CONTACT: Ms. Sarena M. Selbo at the above address and telephone (ext. 17). TTY users may contact Ms. Selbo through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant species to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for reclassification and delisting, and provide estimates of the time and cost for implementing recovery measures.

The Act (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that we provide public notice and opportunity for public review and comment during recovery plan development. We announced availability of our draft revised recovery plan in the **Federal Register** on August 12, 2005 (70 FR 47222), and requested public comments. The comment period closed on October 11, 2005. In our preparation of the approved revised recovery plan, we considered information provided to us during the comment period, and we have summarized this information in an appendix to the revised recovery plan.

Running buffalo clover was listed as endangered on July 6, 1987. The original recovery plan was approved on July 8, 1989. This is the first recovery plan revision. Running buffalo clover formerly occurred from West Virginia to Kansas. It is currently extant in limited portions of Indiana, Kentucky, Ohio, Missouri, and West Virginia. Running buffalo clover occurs in mesic habitats of partial to filtered sunlight, where there is a prolonged pattern of moderate periodic disturbance, such as mowing, trampling, or grazing. It is most often found in regions underlain with limestone or other calcareous bedrock.

The primary threat to running buffalo clover is habitat alteration. Factors that contribute to this threat include natural forest succession and subsequent canopy closure, competition by invasive plant species, and catastrophic disturbance such as development or road construction. The elimination of bison and other large herbivores may also be a threat to this species. In addition to these threats, inherent biological vulnerabilities of running buffalo clover include its reliance on pollinators, seed scarification, and dispersal mechanisms, as well as a dependence on disturbance.

Given the known threats and constraints, the recovery effort for running buffalo clover focuses primarily on increasing the number of conserved and managed populations, determining the viability of existing populations, and research on the species ecological requirements. Key to this strategy is the conservation and management of various-sized populations of running buffalo clover throughout the species' geographic range. The recovery criteria and actions rely heavily on retaining and managing suitable habitat. A greater understanding of the biotic and abiotic needs of running buffalo clover is also key to the species recovery.

Downlisting Criteria

Running buffalo clover will be considered for downlisting to threatened status when the likelihood of the species becoming extinct in the foreseeable future has been eliminated by achievement of the following criteria:

(1) Seventeen populations, in total, are distributed as follows: 1 A-ranked, 3 B-ranked, 3 C-ranked, and 10 D-ranked populations across at least 2 of the 3 regions in which running buffalo clover currently occurs (Appalachian, Bluegrass, and Ozark). The number of populations required in each rank is based on what would be necessary to achieve a 95 percent probability of persistence within the next 20 years based on population viability analysis.

(2) For each A-ranked and B-ranked population described in downlisting criterion 1, population viability analysis indicates a 95 percent persistence within the next 20 years, or, for any population that does not meet the 95 percent persistence standard, the population meets the definition of viable. For downlisting purposes, viability is defined as follows: (A) Seed production is occurring; (B) the population is stable or increasing, based on at least 5 years of censusing; and (C) appropriate management techniques are in place.

(3) The land on which each of the populations described in downlisting criterion 1 occurs is owned by a government agency or private conservation organization that identifies maintenance of the species as one of the primary conservation objectives for the site, or, the population is protected by a conservation agreement that commits the landowner to habitat management for the species. Natural resource management plans on Federal lands may be suitable for meeting this criterion.

Delisting Criteria

Running buffalo clover will be considered for delisting when the likelihood of the species becoming threatened in the foreseeable future has been eliminated by the achievement of the following criteria:

(1) Thirty-four populations, in total, are distributed as follows: 2 A-ranked, 6 B-ranked, 6 C-ranked, and 20 D-ranked populations across at least 2 of the 3 regions in which running buffalo clover occurs (Appalachian, Bluegrass, and Ozark). The number of populations in each rank is based on what would be required to achieve a 95 percent

probability of persistence within the next 20 years; this number was doubled to ensure biological redundancy across the range of the species.

(2) For each A-ranked and B-ranked population described in delisting criterion 1, population viability analysis indicates a 95 percent probability of persistence within the next 20 years, or, for any population that does not meet the 95 percent persistence standard, the population meets the definition of viable. For delisting purposes, viability is defined as follows: (A) Seed production is occurring; (B) the population is stable or increasing, based on at least 10 years of censusing; and (C) appropriate management techniques are in place.

(3) The land on which each of the populations described in delisting criterion 1 occurs is owned by a government agency or private conservation organization that identifies maintenance of the species as one of the primary conservation objectives for the site, or, the population is protected by a conservation agreement that commits the landowner to habitat management for the species. Natural resource management plans on Federal lands may be suitable for meeting this criterion.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 5, 2007.

Lynn Lewis,

Deputy Assistant Regional Director, Ecological Services, Region 3.

[FR Doc. E7–12409 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

J.N. ''Ding'' Darling National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment for J.N. ''Ding'' Darling National Wildlife Refuge in Sanibel, Florida.

SUMMARY: The Fish and Wildlife Service intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment for J.N. ''Ding'' Darling National Wildlife Refuge. This notice is furnished in compliance with the Service's comprehensive conservation planning policy to advise other agencies and the public of our intentions, and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: To ensure consideration, comments must be received by August 13, 2007.

ADDRESSES: Comments, questions, and requests for more information regarding the J.N. ''Ding'' Darling National Wildlife Refuge planning process should be sent to: Rob Jess, Refuge Manager, J.N. ''Ding'' Darling National Wildlife Refuge, 1 Wildlife Drive, Sanibel, FL 33957; Telephone: 239/472–1100; Fax: 239/472–4061; Electronic mail: *DingDarlingCCP@fws.gov/.*

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. Public input in this planning process is essential.

Each unit of the National Wildlife Refuge System is established with specific purposes. These purposes are used to develop and prioritize management goals and objectives with the National Wildlife Refuge System mission, and to guide which public uses will occur on the refuge. The planning process is a means for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with the refuge's establishing purposes and the mission of the National Wildlife Refuge System.

A comprehensive conservation planning process will be conducted that will provide opportunities for Tribal, State, and local governments; agencies; organizations; and the public to participate in issue scoping and public comment. The Service invites anyone interested to respond to the following questions:

1. What problems or issues do you want to see addressed in the comprehensive conservation plan?

2. What improvements would you recommend for J.N. ''Ding'' Darling National Wildlife Refuge?

The above questions have been provided for your optional use. You are not required to provide any information. The Planning Team developed these questions to gather information about individual issues and ideas concerning the refuge. The Planning Team will use comments it receives as part of the planning process; however, it will not reference individual comments or directly respond to them.

Special mailings, newspaper articles, and other media announcements will be used to inform State and local government agencies and the public of the opportunities for input throughout the planning process. Open house style meeting(s) will be scheduled and held throughout the scoping phase of the comprehensive conservation plan development process.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); and other appropriate Federal laws and regulations. All comments received become part of the official public record. 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.

J.N. ''Ding'' Darling National Wildlife Refuge was originally established as the Sanibel National Wildlife Refuge in 1945. The refuge was originally established ''for use as an inviolate sanctuary, or for any other management purposes, for migratory birds, and suitable for incidental fish and wildlife-oriented recreational development, the protection of natural resources, and the conservation of threatened and endangered species.'' In 1967, the refuge was renamed in honor of Jay Norwood ''Ding'' Darling and now consists of 6,300 acres of mangrove estuary, freshwater spartina wetlands, and tropical hardwood hammocks. In 1976,

Public Law 94–557 approved 2,825 acres of the refuge as a Wilderness Area.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: May 25, 2007.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E7–12451 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Shell Keys National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment for Shell Keys National Wildlife Refuge in Iberia Parish, Louisiana.

SUMMARY: The Fish and Wildlife Service intends to gather information necessary to prepare a comprehensive conservation plan and environmental assessment for Shell Keys National Wildlife Refuge. This notice is furnished in compliance with the Service's comprehensive conservation planning policy to advise other agencies and the public of our intentions, and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: To ensure consideration, comments must be received by July 27, 2007.

ADDRESSES: Address comments, questions, and requests for further information to the following: Tina Chouinard, Refuge Planner, Central Louisiana National Wildlife Refuge Complex, 401 Island Road, Marksville, Louisiana 71351; Fax: 318/253–7139; or e-mail at *tina_chouinard@fws.gov*. You may find additional information concerning the refuge at the refuge's Internet site *http://www.fws.gov/shellkeys/*.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. Public input in this planning process is essential.

Each unit of the National Wildlife Refuge System is established with specific purposes. These purposes are used to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission, and to guide which public uses will occur on the refuge. The planning process is a means for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with the refuge's establishing purposes and the mission of the National Wildlife Refuge System.

A comprehensive conservation planning process will be conducted that will provide opportunities for Tribal, State, and local governments; agencies; organizations; and the public to participate in issue scoping and public comment. The Service invites anyone interested to respond to the following questions:

1. What problems or issues do you want to see addressed in the comprehensive conservation plan?

2. What improvements would you recommend for the Shell Keys National Wildlife Refuge?

The above questions have been provided for your optional use. You are not required to provide any information. The Planning Team developed these questions to gather information about individual issues and ideas concerning the refuge. The Planning Team will use comments it receives as part of the planning process; however, it will not reference individual comments or directly respond to them.

A public scoping meeting will be held as part of the comprehensive conservation plan development process. Special mailings, newspaper articles, and other media announcements will be used to inform the public and State and local government agencies of the opportunities for input throughout the planning process.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.); NEPA regulations (40 CFR parts 1500–1508); and other appropriate Federal laws and regulations. All comments received become part of the official public record. 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.

Congress established Shell Keys Refuge in August 1907 by Executive Order 682. The refuge's five acres are located in the offshore waters to the west of the Atchafalaya River Delta, and south of Marsh Island Wildlife Management Area, Iberia Parish, Louisiana. Shell Keys Refuge provides habitat for concentrations of shorebirds and colonial sea birds. The refuge is a bird sanctuary and is only accessible by boat.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Pub. L. 105–57.

Dated: May 25, 2007.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E7–12449 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–2110–IW–F202]

Notice to the Public of Temporary Public Lands Closures and Prohibitions of Certain Activities on Public Lands Administered by the Bureau of Land Management (BLM), Winnemucca Field Office, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: Notice is hereby given that certain lands located in northwestern Nevada will be temporarily closed or restricted and certain activities will be temporarily prohibited in and around an area near the city of Winnemucca known as Water Canyon and administered by the BLM Winnemucca

Field Office in Humboldt County, Nevada.

The specified closures, restrictions and prohibitions are made in the interest of public and employee safety during the period of heavy construction equipment usage at and around the public lands in an area known as Water Canyon Recreation Area, Zone 1. The temporary closure is needed during the construction phase of the ''Water Canyon Implementation Plan Amendment'' (Decision Record signed 11/16/05).

DATES: April 1, 2007 through November 30, 2007, inclusive.

FOR FURTHER INFORMATION CONTACT: Dave Hays, Assistant Field Manager, Nonrenewable Resources, Winnemucca Field Office, Bureau of Land Management, Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445–2921, telephone: (775) 623–1500.

SUPPLEMENTARY INFORMATION: The lands described below will be closed or restricted with regard to the following:

• April 1, 2007 through November 30, 2007 inclusive: Restricted entry by the public into Zone 1 of the Water Canyon Recreation Area during certain time periods as outlined in the sections below, to provide for safety of individuals.

Mount Diablo Meridian

T. 35 N., R. 38 E.,
Sec. 2, S½SW¼ portion inside barbed wire fence;
Sec. 11; NE¼ and N½NW¼ portion inside barbed wire fence.
Sec. 12, SW¼NW¼, N½SW¼, and NW¼ SE¼ portion inside barbed wire fence.

1. *Motorized Use*

During working hours, Monday thru Friday, motor vehicle use of any kind by the public is prohibited in Zone 1 of the Water Canyon Recreation Area.

2. *Public Entry*

Public entry of any persons or individuals is prohibited in Zone 1, during working hours from Monday thru Friday.

3. *Public Camping*

Public camping is prohibited in Zone 1 during this period of construction.

4. *Exemptions*

(1) Any federal, state or local government officer or member of an organized rescue or fire fighting force while in the performance of official duties.

(2) Any Bureau of Land Management employee, agent, contractor, or cooperator while in the performance of official duties.

(3) Any Federal, State, local, or contract law enforcement officer, while in the performance of their official duties, or while enforcing this closure notice.

(4) Those authorized under 43 CFR.

Authority: 43 CFR 8364.1.

Penalty: Any person failing to comply with the closure orders will be subject to a fine of no more than $1,000 or imprisonment for not more than 12 months, or both.

Jeffrey Fedrizzi,

Acting Field Manager.

[FR Doc. E7–12377 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–OR–090–5882–PH–EE01; HAG 07–0139]

Eugene District Resource Advisory Committee: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of the Interior Bureau of Land Management (BLM) announces the following advisory committee meeting:

Name: Eugene District Resource Advisory Committee.

Time and Date: 9 a.m. September 6, 2007; 9 a.m. September 13, 2007.

Place: Eugene District Office, 2890 Chad Drive, Eugene, Oregon 97408.

Status: Open to the public.

Matters to be Considered: The Resource Advisory Committee will consider proposed projects for Title II funding that focus on maintaining or restoring water quality, land health, forest ecosystems, and infrastructure.

Contact Person for More Information: Program information, meeting records and a roster of Committee members may be obtained from Wayne Elliott, Designated Federal Official, Eugene District Office, P.O. Box 10226, Eugene, Oregon 97440, 541 683–6600. The meeting agenda will be posted at *http://www.Blm.gov/or/districts/Eugene/index.php* when available.

Should you require reasonable accommodation, please contact the BLM Eugene District (541)–683–6600 as soon as possible.

Virginia Grilley,

District Manager.

[FR Doc. E7–12454 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–ET; DK–G06–0007; IDI–14893]

Public Land Order No. 7677; Partial Revocation of Secretarial Order dated November 17, 1903, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial Order insofar as it affects 124.70 acres, more or less, of public lands withdrawn for use by the Bureau of Reclamation for the Boise River Reservoir Project. The lands are no longer needed for reclamation purposes.

DATES: *Effective Date:* July 27, 2007.

FOR FURTHER INFORMATION CONTACT: Jackie Simmons, BLM, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3867.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation and Bureau of Land Management have determined that the withdrawal is no longer needed to protect the lands described below. The lands will remain closed to surface entry and mining until a planning review and analysis is completed to determine the best use of the lands.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The Secretarial Order dated November 17, 1903, which segregated lands for the Bureau of Reclamation's Boise River Reservoir Project, is hereby revoked insofar as it affects the following described lands:

Boise Meridian

T. 2 N., R. 3 E.,
Sec. 3, lots 5 to 8, inclusive.

The areas described aggregate 124.70 acres, more or less, in Ada County.

Dated: June 1, 2007.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

[FR Doc. E7–12375 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–ET; MTM 95626]

Public Land Order No. 7676; Revocation of the Withdrawal Established by Executive Order Dated July 19, 1912; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a withdrawal of approximately 42,477 acres of public and National Forest System lands for coal classification purposes. The lands are no longer needed for the purpose for which they were withdrawn. This order will open the public lands to surface entry and nonmetalliferous mining subject to other segregations of record. The lands located within the National Forest will be opened to such forms of disposition as may by law be authorized on National Forest System lands and to nonmetalliferous mining subject to other segregations of record.

DATES: *Effective Date:* July 27, 2007.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–3131, 406–896–5052.

SUPPLEMENTARY INFORMATION: The lands have been and will continue to be open to mineral leasing and metalliferous mining. Copies of the Executive Order showing the complete legal description are available from the BLM Montana State Office at the above address.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The withdrawal established by the Executive Order dated July 19, 1912, which withdrew public and National Forest System lands for Coal Reserve Montana No. 9, is hereby revoked in its entirety. The area comprises approximately 42,477 acres in Missoula County.

2. At 9 a.m. on July 27, 2007, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law, the public lands referenced in Paragraph 1 shall be opened to the operation of the public land laws generally and the National Forest System lands shall be opened to such forms of disposition as may by law be made of National Forest System lands. All valid applications received at or prior to 9 a.m. on July 27, 2007, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on July 27, 2007, the lands referenced in Paragraph 1 shall be opened to location and entry under the United States mining laws for nonmetalliferous minerals, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of the lands under the general mining laws for nonmetalliferous mining prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 20, 2007.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

[FR Doc. E7–12376 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Interior

[CA–190–1232–FU]

Notice of Intent To Collect Fees on Public Land in San Benito and Fresno Counties, California Under the Federal Lands Recreation Enhancement Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Collect Fees in the Clear Creek Special Recreation Management Area in San Benito and Fresno Counties, California.

SUMMARY: To meet increasing demands for service and maintenance, the Bureau of Land Management intends to implement a fee collection program for the Clear Creek Special Recreation Management Area in San Benito and Fresno Counties, California, beginning in January 2008. The fees will be based on a fixed weekly fee rate or a fixed seasonal rate, as explained in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments of interested persons must be postmarked not later than July 27, 2007. Collection of fees will start in January 2008, when notice thereof is posted in the Bureau of Land Management, Hollister Field Office, and at vehicle entry areas for the Clear Creek Special Recreation Management Area.

ADDRESSES: Interested persons may submit written comments to the Field Manager, Bureau of Land Management, Hollister Field Office, 20 Hamilton Court, Hollister, California 95023. The relevant BLM records are available for review at the above address during regular business hours 7:30 a.m. to 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Rick Cooper, Field Manager, Hollister Field Office; or George Hill, Assistant Field Manager; 20 Hamilton Ct., Hollister, CA 95023. (831) 630–5000. E-mail: *Rick Cooper@blm.gov/ca.*

SUPPLEMENTARY INFORMATION: To meet increasing demands for services and maintenance of existing facilities, routes, and trails, the Bureau of Land Management (BLM)'s Hollister Field Office proposes to begin collecting fees January 2008 in the Clear Creek Special Recreation Management Area (CCMA) in San Benito and Fresno Counties, California, under the Federal Lands Recreation Enhancement Act (REA) of 2005. The primary recreation opportunity in the CCMA is off-highway vehicle use; however, more and more outdoor enthusiasts are engaging in other recreation activities in the CCMA with less surface impact, including hunting, hiking, backpacking, hang gliding, peak climbing, and rock hounding. Since the area offers recreation users both motorized and non-motorized recreation opportunities, the CCMA qualifies as a site wherein visitors can be charged a ''Standard Amenity Recreation Fee'' authorized under Section 3(f) and a ''Special Recreation Permit Fee'' authorized under section 3(h) of the REA. After receiving support, guidance, and recommendations from the Central California Resource Advisory Council (RAC), the BLM California State Office, and considerable public input, the BLM Hollister Field Office proposes a fee structure that would consist of charging a Standard Amenity Recreation (SAR) Fee of $5.00 per vehicle upon arriving at the site. This SAR Fee will only apply to users who use facilities at the Clear Creek Management Area and not for members of the public passing through the CCMA. For those visitors who would be participating in OHV use (*e.g.* ATVs, motorcycles, quads, dune

buggies), a Special Recreation Permit Fee (SRP) of $10.00 per OHV would be charged upon arriving at the site. Both the SAR and SRP fees would be good for a weekly pass covering a period from Wednesday through Tuesday regardless of day of purchase. An SRP season pass in the amount of $80.00 would also be available for purchase.

BLM plans to seek review and a recommendation from the Pacific Southwest Region Resources Advisory Committee being established under the authority of the REA. The CCMA is a popular off-highway vehicle (OHV) recreation area and also offers excellent opportunities for hunting, hang gliding, rock hounding, hiking, backpacking, and peak climbing activities. The CCMA qualifies as an area where fees can be charged based on the significant opportunities for outdoor recreation, substantial Federal investment, the ability to collect fees efficiently, has designated developed parking, permanent toilets, permanent trash receptacles, interpretive signs, picnic tables, and security. The BLM's commitment is to find the proper balance between public use and the protection of sensitive resources. It is BLM's policy to ''collect fees at all specialized recreation sites, or where the BLM provides facilities, equipment or services, at federal expense, in connection with outdoor recreation use.'' The Clear Creek Special Recreation Management Area Fee Collection Project is intended to provide funding to maintain existing facilities and recreational opportunities, to provide for law enforcement presence, to develop additional services, and to protect unique and sensitive resources in the area.

The rationale for charging recreation fees was established in the Clear Creek Special Recreation Management Area Business Plan and in a manner consistent with the following criteria: (1) The amount of the recreation fee shall be commensurate with the benefits and services provided to the visitor; (2) The aggregate effect of recreation fees on recreation users and recreation service providers were considered; (3) Comparable fees charged elsewhere and by other public agencies and by nearby private sector operators were considered; (4) Public policy or management objectives served by the recreation fee were considered; (5) Recommendations and guidelines regarding initiating fee sites from the Central California Resource Advisory Council (RAC) was considered and incorporated into the Business Plan; and (6) Other factors or criteria as determined by the Secretary were considered.

The public has been notified and heavily involved since the inception of the idea to collect fees in the CCMA. The RAC; government officials; tribal, Federal, State, county, and local government agencies; environmentalists, recreationists, private in-holders and right-of-way holders have been notified of the Hollister Field Office's proposal to collect fees in the CCMA through direct mailings, bulletins, fee brochures, public meetings, and on-site information and public contact. The Clear Creek Management Area Resource Management Plan Amendment and Route Designation Record of Decision was issued January 2006 and allows for recreation opportunities and the charging of fees for use.

All recreation fee receipts would be retained at the site. Of this amount, at least 85% would be used for repair and maintenance projects, interpretation, signage, habitat or facility enhancement, resource preservation, maintenance, law enforcement directly related to recreation use, support volunteer projects, Challenge Cost Share projects, and similar partnership authorities directly relating to visitor enjoyment, visitor access, and health and safety at recreation fee projects. The Hollister Field Office would not use more than 15% of total fees collected for administration, overhead, and indirect costs related to the recreation fee program except in the case of SRPs where this amount can not be exceeded for overhead and indirect costs relating to issuing and administering the SRP.

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 in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 1824.10)

Dated: June 20, 2007.

Rick Cooper,

Field Manager, Hollister Field Office.

[FR Doc. E7–12412 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Outer Continental Shelf Oil and Gas Lease Sale 206 in the Central Gulf of Mexico (2008)

AGENCY: Minerals Management Service, Interior.

ACTION: Preparation of an environmental assessment.

SUMMARY: The Minerals Management Service (MMS) is issuing this notice to advise the public, pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, that MMS intends to prepare an environmental assessment (EA) for proposed Outer Continental Shelf (OCS) oil and gas Lease Sale 206 in the Central Gulf of Mexico (GOM) scheduled for March 2008. The MMS is issuing this notice to facilitate public involvement. The preparation of this EA is an important step in the decision process for Lease Sale 206. The proposal for Lease Sale 206 was identified by the Call for Information and Nominations published in the **Federal Register** on April 28, 2006, and was analyzed in the Gulf of Mexico OCS Oil and Gas Lease Sales: 2007–2012; Western Planning Area Sales 204, 207, 210, 215, and 218; Central Planning Area Sales 205, 206, 208, 213, 216, and 222—Final Environmental Impact Statement; Volumes I and II (Multisale EIS, OCS EIS/EA MMS 2007–018).

The proposal does not include approximately 5.8 million acres located in the southeastern part of the Central Planning Area (CPA) which the Gulf of Mexico Energy Security Act of 2006 opened to leasing after many years of appropriations Acts containing leasing moratoria. Because of the limited geological and geophysical data available to industry and the limited environmental review for this area, the MMS has decided that it would be premature to offer this area in proposed Lease Sale 206. Before this area is offered for lease, the MMS will conduct a separate NEPA review to reevaluate the expanded CPA sale area.

This EA for proposed Lease Sale 206 will reexamine the potential environmental effects of the proposed lease sale and its alternatives (excluding the unleased blocks near biologically sensitive topographic features; excluding the unleased blocks within 15 miles of the Baldwin County, Alabama, coast; use of a nomination and tract selection leasing system; and no action)

based on any new information regarding potential impacts and issues that were not available at the time the Multisale EIS was prepared.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Chew, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, MS 5410, New Orleans, Louisiana 70123–2394. You may also contact Mr. Chew by telephone at (504) 736–2793.

SUPPLEMENTARY INFORMATION: In April 2007, the MMS published a Multisale EIS that addressed 11 proposed Federal actions that would offer for lease areas on the GOM OCS that may contain economically recoverable oil and gas resources. Federal regulations allow for several related or similar proposals to be analyzed in one EIS (40 CFR 1502.4). Since each proposed lease sale and its projected activities are very similar each year for each planning area, a single EIS was prepared for the 11 Western Planning Area (WPA) and CPA lease sales scheduled in the proposed OCS Oil and Gas Leasing Program: 2007–2012 (5-Year Program). The Multisale EIS addressed WPA Lease Sale 204 in 2007, Sale 207 in 2008, Sale 210 in 2009, Sale 215 in 2010, and Sale 218 in 2011; and CPA Lease Sale 205 in 2007, Sale 206 in 2008, Sale 208 in 2009, Sale 213 in 2010, Sale 216 in 2011, and Sale 222 in 2012. Although the Multisale EIS addresses 11 proposed lease sales, at the completion of the EIS process, a Record of Decision will be published in July 2007 for only proposed WPA Lease Sale 204 and proposed CPA Lease Sale 205. Prior to each of the nine subsequent proposed lease sales, including Lease Sale 206, an additional NEPA review (an EA) will be conducted to address any new information relevant to that proposed lease sale. After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a Supplemental EIS. The MMS prepares a Consistency Determination (CD) to determine whether the lease sale is consistent with each affected state's federally-approved coastal zone management program. Finally, the MMS will solicit comments via the Proposed Notice of Sale (PNOS) from the governors of the affected states on the size, timing, and location of the lease sale. The tentative schedule for the prelease decision process for Lease Sale 206 is as follows: EA/FONNSI or Supplemental EIS decision, October 2007; CDs sent to affected states, October 2007; PNOS sent to governors of the affected states, October 2007; Final Notice of Sale published in the **Federal Register**, February 2008; and Lease Sale 206, March 2008.

Public Comments: Within 30 days of this Notice's publication, interested parties are requested to send comments regarding any new information or issues that should be addressed in the EA. Comments may be submitted in one of the following two ways:

1. In written form enclosed in an envelope labeled ''Comments on CPA Lease Sale 206 EA'' and mailed (or hand carried) to the Regional Supervisor, Leasing and Environment (Mail Stop 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

2. Electronically to the MMS e-mail address: *environment@mms.gov*. To obtain single copies of the Multisale EIS, you may contact the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (Mail Stop 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). You may also view the Multisale EIS or check the list of libraries that have copies of the Multisale EIS on the MMS Web site at *http://www.gomr.mms.gov*.

Dated: June 5, 2007.

Robert P. LaBelle,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. E7–12441 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Notice of Charter Renewal; California Bay-Delta Public Advisory Committee Charter Renewal

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior (Secretary) is renewing the charter for the California Bay-Delta Public Advisory Committee (Committee). The purpose of the Committee is to provide advice and recommendations to the Secretary on implementation of the CALFED Bay-Delta Program (Program) as described in the Programmatic Record of Decision which outlines the long-term comprehensive solution for addressing the problems affecting the San Francisco Bay-Sacramento-San Joaquin Delta Estuary, Public Law 108–361, and other applicable law. Specific responsibilities of the Committee include: (1) Making recommendations on annual priorities and coordination of Program actions to achieve balanced implementation of the Program elements; (2) providing recommendations on effective integration of Program elements to provide continuous, balanced improvement of each of the Program objectives (ecosystem restoration, water quality, levee system integrity, and water supply reliability); (3) evaluating implementation of Program actions, including assessment of Program area performance; (4) reviewing and making recommendations on Program Plans and Annual Reports describing implementation of Program elements as set forth in the ROD to the Secretary; (5) recommending Program actions taking into account recommendations from the Committee's subcommittees; and (6) liaison between the Committee's subcommittees, the State and Federal agencies, the Secretary and the Governor.

The Committee consists of 20 to 30 members who are appointed by the Secretary, in consultation with the Governor.

FOR FURTHER INFORMATION CONTACT: Diane Buzzard, CALFED Program Manager, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95821–1898, telephone 916–978–5525.

The certification of Charter renewal is published below:

Certification

I hereby certify that Charter renewal of the California Bay-Delta Public Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of the Interior.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. 07–3146 Filed 6–26–07; 8:45 am]

BILLING CODE 4310–MN–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–894 (Review)]

Certain Ammonium Nitrate From Ukraine

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on certain ammonium nitrate from Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on August 1, 2006 (71 FR 43516) and determined on November 6, 2006 that it would conduct a full review (71 FR 67366, November 21, 2006). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 15, 2006 (71 FR 75579). The hearing was held in Washington, DC, on April 17, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on June 19, 2007. The views of the Commission are contained in USITC Publication 3924 (June 2007), entitled *Certain Ammonium Nitrate from Ukraine: Investigation No. 731–TA–894 (Review).*

Issued: June 20, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–12427 Filed 6–26–07; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–546]

In the Matter of Certain Male Prophylactic Devices

Order

This investigation was instituted on August 5, 2005, based on a complaint filed on behalf of Portfolio Technologies, Inc., of Chicago, Illinois. 70 FR 45422. The complaint, as amended and supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain male prophylactic devices by reason of infringement of claims 1–27, 31–33, and 36 of U.S. Patent No. 5,082,004. The respondents named in the investigation are Church & Dwight Co., Inc., of Princeton, New Jersey (''C&D''); Reddy Medtech, Ltd., of Tamil Nadu, India; and Intellx, Inc., of Petoskey, Michigan.

On June 30, 2006, the presiding administrative law judge (''ALJ'') issued a final initial determination (''ID'') in which he ruled that there is no violation of section 337 of the Tariff Act of 1930, as amended. He found that certain valid claims were infringed, but concluded that there was no domestic industry under the economic prong of the domestic industry requirement. All parties petitioned for review of various parts of the final ID.

On September 29, 2006, the Commission determined to review the issues of claim construction, infringement, invalidity due to anticipation, and domestic industry, and requested briefing on these issues and certain subissues. 71 FR 58875 (Oct. 5, 2006). On December 5, 2006, the Commission determined to affirm in part, reverse in part, and remand in part the final ID. Among other things, the Commission reversed the ALJ's finding of no domestic industry under the economic prong. The Commission also determined to extend the target date for completion of the investigation until June 5, 2007. The date was subsequently moved to June 21, 2007, by an unreviewed ID.

On March 19, 2007, the ALJ issued his remand ID (''IDR''), in which he ruled that there is a violation of section 337 based on the infringement of certain valid claims and the finding that there is a domestic industry. In further briefing before the Commission, all parties claimed error.

Having examined the parties' submissions and the record in this proceeding, it is hereby *ordered* that —

(1) The ALJ's finding of violation of section 337 is reversed;

(2) The ALJ's finding that the accused products infringe certain claims of U.S. Patent No. 5,082,004 is reversed;

(3) The ALJ's finding that the Twisted Pleasure product fails to meet the thickness limitation of claims 22 and 25 of the asserted patent is reversed;

(4) The ALJ's finding that C&D waived its argument that claim 31 of the asserted patent is invalid as anticipated by the prior art is reversed;

(5) The ALJ's finding that claims 1, 6, and 9 of the asserted patent are invalid in view of the prior art are reversed;

(6) The IDR is vacated except where consistent with the determination of the Commission;

(7) The motion of the Office of Unfair Import Investigations to file its reply out of time is granted;

(8) The investigation is terminated with a finding of no violation of section 337;

(9) The Secretary shall serve a copy of this Order and the Commission Opinion in support thereof, as soon as it is issued, upon each party to the investigation; and

(10) The Secretary shall publish notice of this order and termination of the investigation in the **Federal Register**.

Issued: June 21, 2007.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E7–12400 Filed 6–26–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–492]

China: Description of Selected Government Practices and Policies Affecting Decision-Making in the Economy

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request on May 29, 2007, from the Committee on Ways and Means of the U.S. House of Representatives (Committee) for a series of three reports under section 332(g) of the Tariff Act of 1930 (19 U.S.C. (332(g)) on U.S.-China trade, the Commission instituted investigation No. 332–492, China: Description of Selected

Government Practices and Policies Affecting Decision-Making in the Economy, for the purpose of preparing the first report.

DATES: August 17, 2007: Deadline for filing requests to appear at the public hearing.

August 17, 2007: Deadline for filing pre-hearing briefs and statements.

September 6, 2007: Public hearing.

September 20, 2007: Deadline for filing post-hearing briefs and statements and other written submissions.

December 29, 2007: Transmittal of Commission report to the Committee on Ways and Means.

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 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://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Project leaders James Stamps (202–205–3227 or *james.stamps@usitc.gov*) or John Fry (202–708–4157 or *john.fry@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 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 Office of the Secretary at 202–205–2000.

Background

In its May 23, 2007, letter, the Committee noted that it had earlier, in a letter dated September 21, 2006, requested that the Commission prepare three reports relating to U.S.-China trade. In its May 23, 2007 letter, the Committee requested that the Commission augment the September 21, 2006, letter by adding two more components to its investigation in order to provide an in-depth assessment of the causes of the U.S.-China trade imbalance and whether and to what extent China uses various forms of government intervention to promote investment, employment, and exports. The Committee indicated that it may supplement its request with additional questions, including questions related to the functioning of China's labor market. The Committee also allotted more time to the Commission to submit its reports, with the first report under the revised schedule to be delivered 7 months after receipt of the letter and the second and third reports, 14 and 24 months after receipt of the letter, respectively.

This notice announces institution of an investigation related to preparation of the first report described in the Committee's May 23, 2007, letter. The Commission will issue notices concerning investigations that relate to preparation of the second and third reports at a later date. In its letter the Committee also expanded the scope of ongoing Commission investigation No. 332–478, U.S.-China Trade: Implications of U.S.-Asia-Pacific Trade and Investment Trends. The report in that investigation will be the third in the series of three reports, and the Committee has extended the transmittal date to May 29, 2009.

As requested by the Committee, in its first report the Commission will describe and where possible quantify the practices and policies that central, provincial, and local government bodies in China use to support and attempt to influence decision making in China's agricultural, manufacturing and services sectors, and by individual firms. The Commission's report will include, but not be limited to, chapters describing government policies and interventions related to: (1) The privatization of state-owned enterprises and private ownership; (2) price coordination; (3) industrial development, particularly policies that target specific industries; (4) the banking and finance sectors, including policies and interventions to promote indicative lending and on the treatment of nonperforming loans; (5) utility rates; (6) infrastructure development; (7) taxation; (8) restraints on imports and exports; (9) research and development; (10) worker training and retraining; and (11) the rationalization and closure of uneconomic enterprises. The Committee also requested that the Commission include an analysis of the likely impact of a recently announced policy directive from China's State-Owned Assets Supervision and Administration Commission, which the Committee indicated raises serious concerns about China's interventions in a number of sectors.

As requested by the Committee, the Commission will provide its first report to the Committee by December 29, 2007.

Public Hearing

A public hearing in connection with this investigation and report will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on September 6, 2007. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., August 17, 2007, in accordance with the requirements in the ''Written Submissions'' section below. In the event that, as of the close of business on August 17, 2007, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after August 17, 2007, for information concerning whether the hearing will be held.

The Commission is also interested in receiving public comments, through hearing testimony or written submissions, identifying the industries, products, or services in which Chinese government policies and interventions are prevalent and in which leading U.S. exports have not penetrated the Chinese market, as well as public comments regarding the sectors that are perceived to be the primary drivers of the U.S.-China trade deficit.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements and briefs concerning this investigation. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary to the Commission. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., August 17, 2007; and all post-hearing briefs and statements and all other written submissions should be filed not later than 5:15 p.m., September 20, 2007. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the

following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *http://www.usitc.gov/secretary/edis.htm.*

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' 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 reports available to the public in their entirety, and asked that the Commission not include any confidential business information or national security classified information in the reports that the Commission sends to the Committee. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

Issued: June 21, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–12428 Filed 6–26–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on June 15, 2007, a proposed Consent Decree in *United States* v. *Beehive Barrel and Drum, Inc. d/b/a Cascade Cooperage, Inc.* (D. Utah), C.A. No. 2:04–CV–00570 (TC), was lodged with the United States District Court for the District of Utah, Central Division.

In this action, the United States seeks response costs incurred and to be incurred by the Environmental Protection Agency (''EPA''), pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9607, in connection with the Service First Barrel and Drum Site, located in Salt Lake City, Utah. The United States also seeks punitive damages for non-compliance with a unilateral administrative order issued to the Estate of Stanley Pope and Stanco Enterprises, L.C. pursuant to Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. 9606(b), 9607(c)(3), and civil penalties for Bryan Pope's and S.R.P. Gifting Trust's failure to answer EPA's information requests pursuant to Section 104(e) of CERCLA, 42 U.S.C. 9604(e). Defendants Estate of Stanley Pope, Bryan Pope, S.R.P. Gifting Trust and Stanco Enterprises have resolved the United States' response cost claims, punitive damages claims and civil penalties claims through this Consent Decree.

The settlement is based on a documented inability-to-pay analysis. Based upon the analysis, EPA determined that the Rossomondo Defendants had the financial ability to pay the proceeds from a sale of the Diatect Stock owned by the Estate to reimburse EPA for the EPA's response costs that were incurred in connection with the clean-up of the Site. Defendants Estate of Stanley Pope and Stanco Enterprises, L.C. will pay $2,500 in punitive damages to settle their liability for failure to comply with a unilateral order. Defendants Bryan Pope and S.R.P. Gifting Trust will pay $7,500 in civil penalties for failure to respond to EPA's information requests.

The Department of Justice will receive, for a period of 30 days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Beehive Barrel and Drum, Inc. d/b/a Cascade Cooperage, Inc.,* DOJ Ref. No. 90–11–3–08170.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 185 South State, Ste. 400, Salt Lake City, Utah 84111; and U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202. During the public comment period, the proposed Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decree.html.* A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Consent Decree from the Consent Decree Library, please enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the U.S. Treasury.

Robert D. Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–3147 Filed 6–26–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Between the United States of America and the City of New Haven, MO Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Under 28 CFR 50.7, notice is hereby given that on June 15, 2007, a proposed Consent Decree (Consent Decree) with Defendant the City of New Haven, Missouri (New Haven) in the case of *United States* v. *the City of New Haven, Missouri,* Civil Action No. 4:06CV01429–ERW, has been lodged in the United States District Court for the Eastern District of Missouri.

This Consent Decree resolves the United States' claims against New Haven under Section 107 of CERCLA, 42 U.S.C. 9607, for the recovery of response costs incurred by the United States in connection with releases of hazardous substances at or from the Old City Dump Site, operable unit three of the Riverfront Superfund Site, located in New Haven (OU3). Under the decree, New Haven agrees to implement the remedy selected by the United States Environmental Protection Agency (EPA) for OU3 and pay $19,500 of EPA's response costs for OU3, based on New Haven's limited ability to pay. Pursuant to the decree, the United States covenants not to sue or take administrative action against New Haven for OU3, as well as for operable

units two and six of the Riverfront Superfund Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *the City of New Haven, Missouri,* Civil Action No. 4:06CV01429–ERW, D.J. Ref. 90–11–2–08795.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Missouri, 111 South Tenth Street, 20th floor, St. Louis, Missouri 63102, and at the Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101. During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $29.50 (25 cents per page reproduction cost) payable to the United States Treasury for payment. In requesting a copy exclusive of exhibits and signature pages, please enclose a check in the amount of $10.00 (25 cents per page reproduction cost) payable to the United States Treasury for payment.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 07–3149 Filed 6–26–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environment Response, Compensation and Liability Act (''CERCLA'')

Notice is hereby given that on June 12, 2007, a proposed consent decree in *United States* v. *NCH Corporation, et al.*, Civil Action No. 98–5268 (SDW) and *United States* v. *FMC Corporation, et al.*, Civil Action No. 01–0476 (JCL), was lodged with the United States District Court for the District of New Jersey.

In these actions the United States sought recovery of response costs pursuant to Section 107(a) of CERCLA, for costs incurred related to the Higgins Farm Superfund Site in Franklin Township, New Jersey and the Higgins Disposal Superfund Site in Kingston, New Jersey. The consent decree requires Lisbeth Higgins to pay $1,323,831.80 in reimbursement of the United States' past and future response costs at the Higgins Farm and Higgins Disposal Sites and place agricultural easements on the Higgins Farm and Higgins Disposal properties to preserve the properties exclusively for agricultural or conservation use.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 2044–7611, and should refer to *United States* v. *NCH Corporation, et al.*, D.J. Ref. #90–11–3–1486/1 or *United States* v. *FMC Corportation, et al.*, D.J. Ref #90–11–3–1486/2.

The consent decree may be exaimed at the Office of the United States Attorney, 970 Broad Street, Suite 700, Newark, NJ 07102 (contact Susan Steele) and at U.S. EPA Region II, 290 Broadway, New York, New York 10007–1866 (contact Deborah Schwenk). During the public comment period, the consent decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decree.html.* A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $14.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–3148 Filed 6–26–07; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on June 13, 2007, a proposed Consent Decree (''Decree'') in *United States* v. *Nevada Power Company*, Civil Action No. 2:07–cv–00771, was lodged with the United States District Court for the District of Nevada.

The Complaint filed simultaneously with the Consent Decree was brought by the United States against Nevada Power Company (''Nevada Power'') pursuant to Sections 113(b) and 167 of the Clean Air Act (the ''Act''), 42 U.S.C. 7413(b) and 7477, seeking injunctive relief and civil penalties for violations of the pre-construction permitting program required by the Prevention of Significant Deterioration (''PSD'') provisions of the Act, 42 U.S.C. 7470–92, and the federally enforceable State Implementation Plan (''SIP'') of Clark County, Nevada. The Complaint alleges that, in 1992, Nevada Power modified, and thereafter operated, two combustion turbines designated as Units 5 and 6 at its Clark Generating Station (''Clark Station'') in Las Vegas, Nevada without first obtaining a PSD pre-construction permit and a Title V Operating Permit authorizing the modification and the subsequent operation of these units, and without installing and operating the ''Best Available Control Technology'' to control emissions of oxides of nitrogen (''NO_x'').

The proposed Consent Decree would require Nevada Power to reduce NO_x emissions through, among other things, the installation of pollution control technologies on Units 5 and 6 and on two additional combustion turbines at Clark Station, designated as Units 7 and 8. In addition, the proposed Consent Decree would require Nevada Power to fund $400,000 of solar arrays in Las Vegas. Finally, the proposed Consent Decree would require Nevada Power to pay a $300,000 civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural

Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Nevada Power Company*, D.J. Ref. 90–5–2–1–07969.

The Decree may be examined at the Office of the United States Attorney for the District of Nevada, located at 333 South Las Vegas Blvd., Lloyd George Federal Building, Las Vegas, Nevada, and at U.S. EPA Region 9, located at 75 Hawthorne Street, San Francisco, California. During the public comment period, the Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/ConsentDecrees.html*. A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $12.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. In requesting a copy exclusive of appendices to the Decree, please enclose a check in the amount of $12.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

W. Benjamin Fisherow,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07–3150 Filed 6–26–07; 8:45 am]

BILLING CODE 4410–15–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company; Surry Power Station, Unit Nos. 1 and 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of exemptions from Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix G, ''Fracture Toughness Requirements'' and 10 CFR Part 50, Section 50.61, ''Fracture toughness requirements for protection against pressurized thermal shock events,'' for Renewed Facility Operating License Nos. DPR–32 and DPR–37, issued to Virginia Electric and Power Company (the licensee), for operation of the Surry Power Station, Unit Nos. 1 and 2 (Surry 1 and 2), located in Surry County, Virginia. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action, as described in the licensee's application dated June 13, 2006 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML061650080), would allow use of an alternate method, as described in Framatome Advanced Nuclear Power Topical Report BAW–2308, Revision 1, ''Initial RT_{NDT} of Linde 80 Weld Materials,'' for determining the adjusted reference nil-ductility temperature (RT_{NDT}) of the Linde 80 weld materials present in the beltline region of the Surry 1 and 2 reactor pressure vessels (RPVs). On August 4, 2005, NRC approved the Topical Report BAW–2308, Revision 1 (ADAMS Accession No. ML052070408).

The Need for the Proposed Action

The underlying purpose of 10 CFR Part 50, Appendix G, and 10 CFR 50.61 is to protect the integrity of the reactor coolant pressure boundary by ensuring that each RPV material has adequate fracture toughness. Per 10 CFR Part 50, Appendix G, and 10 CFR 50.61, the methodology for evaluating RPV material fracture toughness is based on Charpy V-notch and drop weight data. This methodology has been shown to be overly conservative when used to predict the transition from ductile to brittle failure in Linde 80 welds. As a result, the licensee proposes to use an alternate methodology as described in the NRC approved Topical Report BAW–2308, Revision 1, and this alternate methodology still yields conservative results for demonstrating compliance with the requirements of 10 CFR Part 50, Appendix G, and 10 CFR 50.61.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation (SE) of the proposed action and concludes that the proposed exemptions will not present an undue risk to the public health and safety. The details of the NRC staff's SE will be provided in the exemptions that will be issued as part of the letter to the licensee approving the exemptions to the regulation. The exemptions would allow the licensee to use an alternative methodology to make use of fracture toughness test data for evaluating the integrity of the Surry 1 and 2 RPV circumferential beltline welds; do not compromise the safe operation of the reactors, and ensure that RPV integrity is maintained. Further, these exemptions will not increase the potential for failure of RPV due to PTS. Therefore, these exemptions have no significant environmental impacts.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement related to the operation of Surry 1 and 2, May and June 1972, respectively.

Agencies and Persons Consulted

In accordance with its stated policy, on April 25, 2007, the NRC staff consulted with Mr. Les Foldesi, Director of the Bureau of Radiological Health, Commonwealth of Virginia, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 13, 2006. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 21st day of June 2007.

For the Nuclear Regulatory Commission.

Siva P. Lingam,

Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–12431 Filed 6–26–07; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting; Notification of Items Added to Meeting Agenda

DATE OF MEETING: June 19, 2007.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 72 FR 32338, June 12, 2007.

ADDITIONS:

1. Postal Regulatory Commission Opinion and Recommended Decision in Docket No. MC2006–7, Stamped Stationery and Stamped Cards Classifications.

2. Postal Regulatory Commission Opinion and Recommended Decision in Docket No. MC2007–2, Repositionable Notes Minor Classification Change.

3. Filing with the Postal Regulatory Commission for Premium Forwarding Service.

At its closed meeting on June 19, 2007, the Board of Governors of the United States Postal Service voted unanimously to add these items to the agenda of its closed meeting and that no earlier announcement was possible. The General Counsel of the United States Postal Service certified that in her opinion discussion of this item could be properly closed to public observation.

CONTACT PERSON FOR MORE INFORMATION: Wendy A. Hocking, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000.

Wendy A. Hocking,

Secretary.

[FR Doc. 07–3156 Filed 6–22–07; 4:56 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27869; File No. 812–13361]

ING Life Insurance and Annuity Company, et al., Notice of Application

June 20, 2007.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (''1940 Act'' or ''Act'') approving certain substitutions of securities and for an order of exemption pursuant to Section 17(b) of the 1940 Act.

APPLICANTS: ING Life Insurance and Annuity Company, ING USA Annuity and Life Insurance Company and ReliaStar Life Insurance Company of New York (each a ''Company'' and together, the ''Companies''), Variable Annuity Account B of ING Life Insurance and Annuity Company, Separate Account B of ING USA Annuity and Life Insurance Company, Separate Account EQ of ING USA Annuity and Life Insurance Company and ReliaStar Life Insurance Company of New York Separate Account NY–B (each, an ''Account'' and together, the ''Accounts''), and ING Investors Trust are collectively referred to herein as the ''Applicants.''

SUMMARY OF APPLICATION: The Applicants request an order, pursuant to Section 26(c) of the 1940 Act, permitting the substitution (''Substitution'') of shares of the ING Franklin Mutual Shares Portfolio—Service Class (the ''Substitute Fund'') for shares of the Franklin Templeton VIP Mutual Shares Securities Fund—Class 2 (the ''Replaced Fund''). The Applicants also hereby apply for an order of exemption pursuant to Section 17(b) of the 1940 Act to permit in-kind redemptions and purchases in connection with the Substitution.

FILING DATE: The Application was filed on January 31, 2007 and amended and restated on June 18, 2007.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 13, 2007, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, J. Neil McMurdie, Counsel, ING Americas U.S. Legal Services, 151 Farmington Avenue, TS31, Hartford, CT 06156–8975.

FOR FURTHER INFORMATION CONTACT: Alison White, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the Public Reference Branch of the Commission, 100 F Street, NE., Room 1580, Washington, DC 20549.

Applicants' Representations

1. Each of the Companies is an indirect wholly owned subsidiary of ING Groep, N.V. (''ING''). ING is a global financial services holding company based in The Netherlands which is active in the field of insurance, banking and asset management. As a result, each Company likely would be deemed to be an affiliate of the others.

2. ING Life Insurance and Annuity Company (''ING Life'') is a stock life insurance company organized under the laws of the State of Connecticut in 1976 as Forward Life Insurance Company. Through a December 31, 1976 merger, ING Life's operations include the business of Aetna Variable Annuity Life Insurance Company (formerly known as Participating Annuity Life Insurance

Company). Through a December 31, 2005 merger, ING Life's operations include the business of ING Insurance Company of America (''ING America''). Prior to May 1, 2002, ING Life was known as Aetna Life Insurance and Annuity Company. ING Life is principally engaged in the business of issuing life insurance and annuities.

3. ING USA Annuity and Life Insurance Company (''ING USA'') is an Iowa stock life insurance company which was originally organized in 1973 under the insurance laws of Minnesota. Through January 1, 2004 mergers, ING USA's operations include the business of Equitable Life Insurance Company of Iowa, United Life and Annuity Insurance Company, and USG Annuity and Life Company. Prior to January 1, 2004, ING USA was known as Golden American Life Insurance Company. ING USA is principally engaged in the business of issuing life insurance and annuities.

4. ReliaStar Life Insurance Company of New York (''ReliaStar NY'') is a stock life insurance company which was incorporated under the laws of the State of New York in 1917. Through an April 1, 2002 merger, ReliaStar NY's operations include the business of First Golden American Life Insurance Company of New York. ReliaStar NY is principally engaged in the business of issuing life insurance and annuities.

5. Each of the Accounts is a segregated asset account of the Company that is the depositor of such Account, and is registered under the 1940 Act as a unit investment trust. Each of the respective Accounts is used by the Company of which it is a part to support the Contracts that it issues.

6. Variable Annuity Account B of ING Life Insurance and Annuity Company (''ING Life B'') (File No. 811–2512) was established by Aetna in 1976 as a continuation of the separate account established in 1974 under the laws of the State of Arkansas by Aetna Variable Annuity Life Insurance Company to support certain Contracts.

7. Separate Account B of ING USA Annuity and Life Insurance Company (File No. 811–5626) was established by Golden in 1988 under the laws of the State of Minnesota.

8. Separate Account EQ of ING USA Annuity and Life Insurance Company, (formerly Equitable Life Insurance Company of Iowa Separate Account A) (File No. 811–8524), was established by Equitable Life in 1988 under the laws of the State of Iowa.

9. ReliaStar Life Insurance Company of New York Separate Account NY–B, formerly Separate Account NY–B of First Golden American Life Insurance Company of New York (File No. 811–7935), was established by First Golden in 1996 under the laws of the State of New York.

10. The ING Franklin Mutual Shares Portfolio, a series of ING Investors Trust, will be used as the Substitute Fund.

11. ING Investors Trust, formerly known as the GCG Trust, was organized as a Massachusetts business trust on August 3, 1988. ING Investors Trust is registered under the 1940 Act as an open-end management investment company (File No. 811–5629).

12. For the series included in this substitution Application, overall management services will be provided by Directed Services LLC (''DSL''). DSL is an investment adviser registered under the Advisers Act, and a broker-dealer registered under the Exchange Act. Under the terms of an investment advisory agreement between ING Investors Trust and DSL (the ''Trust Management Agreement''), which agreement first became effective on October 24, 1997, DSL manages the business and affairs of each of the respective series of the ING Investors Trust, subject to the control and oversight of the ING Investors Trust Board of Trustees (the ''Board''). Under the Trust Management Agreement, DSL is authorized to exercise full investment discretion and make all determinations with respect to the investment of the assets of the respective series, but may, at its own cost and expense, retain portfolio managers for the purpose of making investment decisions and research information available to ING Investors Trust.

13. DSL delegates to subadvisers the responsibility for day-to-day management of the investments of each respective portfolio, subject to DSL's oversight. DSL also recommends the appointment of additional or replacement subadvisers to the Board. ING Investors Trust and DSL have received exemptive relief from the Commission that permits ING Investors Trust and DSL to add or terminate a subadviser without shareholder approval.

14. The Franklin Templeton VIP Mutual Shares Securities Fund, a series of the Franklin Templeton Variable Insurance Products Trust (File No. 811–05583), will be replaced pursuant to any order issued pursuant to this Application.

15. The Contracts are flexible premium variable annuity contracts. The Contracts provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and provide settlement or annuity payment options on a variable or fixed basis. Under each of the prospectuses for the Contracts, each Company reserves the right to substitute shares of one fund or portfolio for shares of another.

A Contract owner may transfer all or any part of the Contract value from one subaccount to any other subaccount or a fixed account, if available, as long as the Contract remains in effect and at any time up to 30 days before the due date of the first annuity payment for variable annuity Contracts. For many of the Contracts, the Company issuing the Contract reserves the right to limit the number of transfers during a specified period.

16. The comparative fees and expenses for each fund in this proposed substitution are as follows:

	Management fees (%)	Distribution (12b–1) fees (%)	Other expenses (%)	Total annual expenses (%)	Expense waivers (%)	Net annual expenses (%)
Substitute Fund:						
ING Franklin Mutual Shares Portfolio—Service Class [1]	0.78	.....	[2] 0.25	1.03	.....	1.03
Replaced Fund:						
Franklin Templeton VIP Mutual Shares Securities Fund—Class 2	0.60	0.25	0.21	1.06	.....	1.06

[1] This portfolio is subject to a Unified Fee arrangement.

[2] The ''Other Expenses'' of this portfolio includes a Shareholder Services Fee of 0.25%. This Shareholder Services Fee is permanently capped at 0.25%.

17. The ING Franklin Mutual Shares Portfolio is patterned after the Franklin Templeton VIP Mutual Shares Securities Fund, and these two portfolios have the same investment objectives and policies. The investment objective of both portfolios is to seek capital appreciation. Additionally, the investment adviser for Franklin Templeton VIP Mutual Shares Securities Fund will be the sub-adviser to the ING Franklin Mutual Shares Portfolio and will manage the two funds in the same way.

18. The expense ratios and total return figures for each fund in this proposed substitution as of March 31, 2007, are as follows:

	Expense ratio (%)	1 Year (%)	3 Years (%)	5 Years (%)	10 Years (%)	Since inception
Substitute Fund:						
ING Franklin Mutual Shares Portfolio—Service Class [3]	1.03					
Replaced Fund:						
Franklin Templeton VIP Mutual Shares Securities Fund—Class 2	1.06	14.58	13.72	10.38	10.46	

[3] This portfolio commenced operations on April 27, 2007. Therefore, annual performance information is not yet available.

Implementation of the Substitutions

19. Applicants will effect the Substitution as soon as practicable following the issuance of the requested order. As of the Effective Date of the Substitution, shares of the Replaced Fund will be redeemed for cash or in-kind. The Companies, on behalf of the Replaced Fund subaccount of each relevant Account, will simultaneously place a redemption request with the Replaced Fund and a purchase order with the Substitute Fund so that the purchase of Substitute Fund shares will be for the exact amount of the redemption proceeds. Thus, Contract values will remain fully invested at all times. The proceeds of such redemptions will then be used to purchase the appropriate number of shares of the Substitute Fund.

20. The Substitution will take place at relative net asset value (in accordance with Rule 22c–1 under the 1940 Act) with no change in the amount of any affected Contract owner's contract value, cash value, accumulation value, account value or death benefit, or in the dollar value of his or her investment in the applicable Account. Any in-kind redemption of shares of the Replaced Fund or in-kind purchase of shares of the Substitute Fund will, except as noted below, take place in substantial compliance with the conditions of Rule 17a–7 under the 1940 Act. No brokerage commissions, fees or other remuneration will be paid by either the Replaced Fund or the Substitute Fund or by affected Contract owners in connection with the Substitution. The transactions comprising the Substitution will be consistent with the policies of each investment company involved and with the general purposes of the 1940 Act.

21. Affected Contract owners will not incur any fees or charges as a result of the Substitution nor will their rights or the Companies' obligations under the Contracts be altered in any way. The Companies or their affiliates will pay all expenses and transaction costs of the Substitution, including legal and accounting expenses, any applicable brokerage expenses, and other fees and expenses. In addition, the Substitution will not impose any tax liability on affected Contract owners. The Substitution will not cause the Contract fees and charges currently being paid by affected Contract owners to be greater after the Substitution than before the Substitution. Also, as described more fully below, after notification of the Substitution and for 30 days after the Substitution, affected Contract owners may reallocate to any other investment options available under their Contract the subaccount value of the Replaced Fund without incurring any administrative costs or allocation (transfer) charges.

22. Shortly after the date of the Application, all affected Contract owners were notified of the Substitution by means of supplements to the Contract prospectuses. Among other information regarding the Substitution, the supplements informed affected Contract owners that beginning on the date of the first supplement the Companies would not exercise any rights reserved by them under the Contracts to impose restrictions or fees on transfers from the Replaced Fund (other than restrictions related to frequent or disruptive transfers) until at least 30 days after the Effective Date of the Substitution. Following the date the order requested by the Application is issued, but before the Effective Date, affected Contract owners will receive a second supplement to the Contract prospectus setting forth the Effective Date and advising affected Contract owners of their right, if they so choose, at any time prior to the Effective Date, to reallocate or withdraw accumulated value in the Replaced Fund subaccounts under their Contracts or otherwise terminate their interest therein in accordance with the terms and conditions of their Contracts. If affected Contract Owners reallocate account value prior to the Effective Date or within 30 days after the Effective Date, there will be no charge for the reallocation of accumulated value from the Replaced Fund subaccount and the reallocation will not count as a transfer when imposing any applicable restriction or limit under the Contract on transfers. The Companies will not exercise any right they may have under the Contracts to impose additional restrictions or fees on transfers from the Replaced Fund under the Contracts (other than restrictions related to frequent or disruptive transfers) for a period of at least 30 days following the Effective Date of the Substitution. Additionally, all current Contract Owners will be sent prospectuses of the Substitute Fund before the Effective Date.

23. Within five (5) business days after the Effective Date, affected Contract Owners will be sent a written confirmation (''Post-Substitution Confirmation'') indicating that shares of the Replaced Fund have been redeemed and that the shares of Substitute Fund have been substituted. The Post-Substitution Confirmation will show how the allocation of the Contract Owner's account value before and immediately following the Substitution has changed as a result of the Substitution and detail the transactions effected on behalf of the respective affected Contract Owner because of the Substitution.

Applicant's Legal Analysis

1. Applicants represent that each of the prospectuses for the Contracts expressly discloses the reservation of the Companies' right, subject to compliance with applicable law, to

substitute shares of another open-end management investment company for shares of an open-end management investment company held by a subaccount of an Account.

2. Applicants state that the Companies reserved this right of substitution both to protect themselves and their Contract owners in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of its separate accounts, and to afford the opportunity to replace such shares where to do so could benefit the Contract owners and Companies.

3. Applicants maintain that Contract Owners will be better served by the proposed Substitution. Applicants anticipate that the replacement of the Replaced Fund will result in a Contract that is administered and managed more efficiently, and one that is more competitive with other variable products in both wholesale and retail markets. As noted above, the Substitute Fund will be patterned after the Replaced Fund. The Substitute Fund will be managed according to the same investment objective and policies as the Replaced Fund and the investment adviser for the Replaced Fund will serve as the sub-adviser to the Substitute Fund.

4. In addition to the foregoing, Applicants generally submit that the proposed Substitution meets the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

5. Applicants anticipate that Contract owners will be at least as well off with the proposed array of subaccounts to be offered after the proposed substitutions as they have been with the array of subaccounts offered before the substitutions. The proposed Substitution retains for Contract owners the investment flexibility which is a central feature of the Contracts. If the proposed Substitution is carried out, all Contract owners will be permitted to allocate purchase payments and transfer accumulated values and contract values between and among the remaining subaccounts as they could before the proposed Substitution.

6. Applicants maintain that the terms of the Substitution, including the consideration to be paid and received by the Replaced Fund or the Substitute Fund, are reasonable, fair and do not involve overreaching principally because the transactions do not cause owners' interests under a Contract to be diluted and because the transactions will conform with the principal conditions enumerated in Rule 17a–7 of the 1940 Act. The proposed transactions will take place at relative net asset value with no change in the amount of any Contract owner's Contract or cash value, accumulation value or death benefit or in the dollar value of his or her investment in any of the Accounts.

7. Applicants submit that the Substitution by the Companies is consistent with the policies of the Substitute Fund and the Replaced Fund, as recited in the current registration statements and reports filed by each under the 1940 Act. Applicants also submit that the Substitution is consistent with the general purposes of the 1940 Act.

8. Applicants submit that, to the extent that the Substitution is deemed to involve principal transactions between affiliates, the procedures and terms and descriptions described in the Application demonstrate that neither the Replaced Fund, the Substitute Fund, the Accounts nor any other Applicant will be participating in the Substitution on a basis less advantageous than that of any other participant. Even though the Applicants may not rely on Rule 17a–7, Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons.

9. The boards of trustees or directors, as applicable, of the Replaced Fund and the Substitute Fund have adopted procedures, as required by paragraph (e)(1) of Rule 17a–7, pursuant to which the portfolios or funds of each may purchase and sell securities to and from their affiliates. The Companies and the investment advisers will carry out the Substitution in conformity with the principal conditions of Rule 17a–7 and the Replaced Fund's and the Substitute Fund's procedures thereunder. Also, no brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed transaction. In addition, the applicable ING Investors Trust board will subsequently review the Substitution and make the determinations required by paragraph (e)(3) of Rule 17a–7.

10. Except as noted below, applicants state that the Substitution will take place in accordance with the requirements enumerated in Rule 17a–7 under the 1940 Act and with the approval of the boards of ING Investors Trust, except that the Substitution may be effected in cash or in-kind. Applicants further submit that the Substitution is consistent with the investment policy of the Replaced Fund and the Substitute Fund, as recited in the current prospectuses relating to each.

11. With regard to the in-kind transfer, the investment adviser of the Substitute Fund and the investment adviser to the Replaced Fund intend to value securities selected for transfer between the two funds in a manner that is consistent with the current methodology used to calculate the daily net asset value of the Replaced Fund. Where the Replaced Fund's investment adviser employs certain third party, independent pricing services to value securities held by the Replaced Fund (''Vendor Pricing''), the investment adviser of the Substitute Fund and Replaced Fund's investment adviser will employ Vendor Pricing to value securities held by the Replaced Fund that are selected for transfer to the Substitute Fund. Generally, the redemption of securities from the Replaced Fund and subsequent transfer to the Substitute Fund will be done on a pro-rata basis. In the event that the Replaced Fund holds illiquid or restricted securities or assets that are not otherwise readily distributable or if a pro-rata transfer of securities would result in the parties holding odd lots, the investment advisers may agree to have the Replaced Fund transfer to the Substitute Fund an equivalent amount of cash instead of securities.

12. After the assets have been contributed to the Substitute Fund, responsibility for valuation of the securities held by the Substitute Fund will shift to the valuation committee of the Substitute Fund's board of trustees. At the end of the first trading following the transfer, the applicable valuation agent and custodian for the Substitute Fund will value the securities held by the Substitute Fund. The foregoing notwithstanding, the Substitute Fund's board of trustees will retain ultimate responsibility for valuation decisions.

Applicant's Conditions

1. The Substitute Fund has an investment objective and investment policies that are the same as the investment objective and policies of the Replaced Fund, so that the objective of the affected Contract Owners can continue to be met.

2. For two years following the implementation of the Substitutions described herein, the net annual expenses of the Substitute Fund will not exceed the net annual expenses of the Replaced Fund immediately preceding the Substitutions. To achieve this limitation, Directed Services LLC will waive fees or reimburse the Substitute

Fund in certain amounts to maintain expenses at or below the limit. Any adjustments or reimbursements will be made at least on a quarterly basis. In addition, the Companies will not increase the Contract fees and charges, including asset based charges such as mortality and expense risk charges deducted from the Subaccounts, that would otherwise be assessed under the terms of the Contracts for a period of at least two years following the Substitutions.

3. The Shareholder Services Fee of the Class S shares of the ING Franklin Mutual Shares Portfolio will be permanently capped at 0.25%.

4. Affected Contract Owners may reallocate amounts from the Replaced Fund without incurring a reallocation charge or limiting their number of future reallocations, or withdraw amounts under any affected Contract or otherwise terminate their interest therein at any time prior to the Effective Date and for a period of at least 30 days following the Effective Date in accordance with the terms and conditions of such Contract. Any such reallocation will not count as a transfer when imposing any applicable restriction or limit under the Contract on transfers.

5. The Substitutions will be effected at the net asset value of the respective shares in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder, without the imposition of any transfer or similar charge by Applicants.

6. The Substitution will take place at relative net asset value without change in the amount or value of any Contract held by affected Contract Owners. Affected Contract Owners will not incur any fees or charges as a result of the Substitution, nor will their rights or the obligations of the Companies under such Contracts be altered in any way.

7. The Companies or their affiliates will pay all expenses and transaction costs of the Substitutions, including legal and accounting expenses, any applicable brokerage expenses, and other fees and expenses. In addition, the Substitutions will not impose any tax liability on affected Contract owners.

8. The Substitution will be effected so that investment of securities will be consistent with the investment objectives, policies and diversification requirements of the Substitute Fund. No brokerage commissions, fees or other remuneration will be paid by the Replaced Fund or the Substitute Fund or affected Contract Owners in connection with the Substitution.

9. The Substitution will not alter in any way the annuity, life or tax benefits afforded under the Contracts held by any affected Contract Owner.

10. The Companies will send to their affected Contract Owners within five (5) business days of the Substitution a written Post-Substitution Confirmation which will include the before and after account values (which will not have changed as a result of the Substitution) and detail the transactions effected on behalf of the respective affected Contract Owner with regard to the Substitution. With the Post-Substitution Confirmations the Companies will remind affected Contract Owners that they may reallocate amounts from any of the Replaced Funds without incurring a reallocation charge or limiting their number of future reallocations for a period of at least 30 days following the Effective Date in accordance with the terms and conditions of their Contract.

11. The Commission shall have issued an order: (a) Approving the Substitutions under Section 26(c) of the 1940 Act; and (b) exempting the in-kind redemptions from the provisions of Section 17(a) of the 1940 Act as necessary to carry out the transactions described in this Application.

12. A registration statement for the Substitute Fund is effective, and the investment objectives and policies and fees and expenses for the Substitute Fund as described herein have been implemented.

13. Each affected Contract Owner will have been sent a copy of: (a) A supplement to the Contract prospectus informing shareholders of this Application; (b) a prospectus for the appropriate Substitute Fund; and (c) a second supplement to the Contract prospectus setting forth the Effective Date and advising affected Contract Owners of their right to reconsider the Substitutions and, if they so choose, any time prior to the Effective Date and for 30 days thereafter, to reallocate or withdraw amounts under their affected Contract or otherwise terminate their interest therein in accordance with the terms and conditions of their Contract.

14. The Companies shall have satisfied themselves, that: (a) The Contracts allow the substitution of investment company shares in the manner contemplated by the Substitutions and related transactions described herein; (b) the transactions can be consummated as described in this Application under applicable insurance laws; and (c) any regulatory requirements in each jurisdiction where the Contracts are qualified for sales have been complied with to the extent necessary to complete the transaction.

15. Under the manager-of-managers relief granted to the ING Investors Trust, a vote of the shareholders is not necessary to change a sub-adviser, except for changes involving an affiliated sub-adviser. Notwithstanding, the parties agree that before the Substitute Fund relies on any Commission order or rule that would permit the Substitute Fund to enter into contracts with subadvisers without obtaining shareholder approval, the Substitute Fund's reliance on the order or rule will be approved, following the substitution proposed herein, by a majority of the Substitute Fund's outstanding voting securities.

Conclusion

For the reasons and upon the facts set forth above, Applicants submit that the requested order meets the standards set forth in Section 26(c). Applicants request an order of the Commission, pursuant to Section 26(c) of the Act, approving the Substitutions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12405 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of June 25, 2007:

A Closed Meeting will be held on Thursday, June 28, 2007 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, June 28, 2007 will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Resolution of litigation claims;

Adjudicatory matters; and

Other matters related to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: June 21, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–12341 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release 34–55920; File No. 600–23]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Order Approving an Extension of Temporary Registration as a Clearing Agency

June 18, 2007.

The Securities and Exchange Commission (''Commission'') is publishing this notice and order to solicit comments from interested persons and to extend the Fixed Income Clearing Corporation's (''FICC'') temporary registration as a clearing agency through June 30, 2008.[1]

On February 2, 1987, pursuant to Sections 17A(b) and 19(a) of the Act[2] and Rule 17Ab2–1 promulgated thereunder,[3] the Commission granted the MBS Clearing Corporation (''MBSCC'') registration as a clearing agency on a temporary basis for a period of eighteen months.[4] The Commission subsequently extended MBSCC's registration through June 30, 2003.[5]

On May 24, 1988, pursuant to Sections 17A(b) and 19(a) of the Act[6] and Rule 17Ab2–1 promulgated thereunder,[7] the Commission granted the Government Securities Clearing Corporation (''GSCC'') registration as a clearing agency on a temporary basis for a period of three years.[8] The Commission subsequently extended GSCC's registration through June 30, 2003.[9]

On January 1, 2003, MBSCC was merged into GSCC, and GSCC was renamed FICC.[10] The Commission subsequently extended FICC's temporary rgistration through June 30, 2007.[11]

On May 17, 2007, FICC requested that the Commission grant FICC permanent registration as a clearing agency or in the alternative extend FICC's temporary registration until such time as the Commission is prepared to grant FICC permanent registration.[12]

Recently FICC announced its intention to have its Mortgage-Backed Services Division (''MBS Division'') act as a central counterparty (''CCP''). Pursuant to this service, FICC would act as the CCP for MBS Division members and would become the new legal counterparty to all original parties for eligible mortgage-backed securities transactions. Currently, FICC through its Government Securities Division acts as the CCP for its members' U.S. Government securities transactions.

Therefore, the Commission is extending FICC's temporary registration as a clearing agency in order that FICC may continue to operate as a registered clearing agency and to provide its users clearing and settlement services. The Commission will consider permanent registration of FICC at a future date after the Commission has further evaluated FICC's plans to have its MBS Division act as a CCP and after the Commission and FICC have had time to evaluate how FICC is functioning with its MBS Division acting as a CCP, assuming the MBS Division CCP service is implemented.

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 600–23 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 600–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.ficc.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that

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[1] FICC is the successor to MBS Clearing Corporation and Government Securities Clearing Corporation.

[2] 15 U.S.C. 78q–1(b) and 78s(a).

[3] 17 CFR 240.17Ab2–1.

[4] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

[5] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997), 62 FR 36587; 39776 (March 20, 1998), 63 FR 14740; 41211 (March 24, 1999), 64 FR 15854; 42568 (March 23, 2000), 65 FR 16980; 44089 (March 21, 2001), 66 FR 16961; 44831 (September 21, 2001), 66 FR 49728; 45607 (March 20, 2002), 67 FR 14755; 46136 (June 27, 2002), 67 FR 44655.

[6] *Supra* note 2.

[7] *Supra* note 3.

[8] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[9] Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19639; 29236 (May 24, 1991), 56 FR 24852; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; 41104 (February 24, 1999), 64 FR 10510; 41805 (August 27, 1999), 64 FR 48682; 42335 (January 12, 2000), 65 FR 3509; 43089 (July 28, 2000), 65 FR 48032; 43900 (January 29, 2001), 66 FR 8988; 44553 (July 13, 2001), 66 FR 37714; 45164 (December 18, 2001), 66 FR 66957; 46135 (June 27, 2002), 67 FR 44655.

[10] Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 (December 24, 2002) [File Nos. SR–GSCC–2002–07 and SR–MBSCC–2002–01].

[11] Securities Exchange Act Release Nos. 48116 (July 1, 2003), 68 FR 41031; 49940 (June 29, 2004), 69 FR 40695; 51911 (June 23, 2005), 70 FR 37878; and 54056 (June 28, 2006), 71 FR 38193.

[12] Letter from Nikki Poulos, Managing Director, General Counsel, and Chief Privacy Officer, FICC (May 16, 2007).

you wish to make available publicly. All submissions should refer to File Number 600–23 and should be submitted on or before July 18, 2007.

It is therefore ordered that FICC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended throughJune 30, 2008.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12331 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55923; File No. SR–Amex–2007–42]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change as Modified by Amendment No. 1 To Lower the Required Number of Letters of Reference an Applicant Must Provide

June 19, 2007.

I. Introduction

On April 26, 2007, 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 proposed rule change to amend the required number of letters of reference an applicant must provide. On May 3, 2007, Amex submitted Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on May 18, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

Amex Rule 353 currently requires a member applicant to provide five letters of reference from any person seeking status as a regular, options principal member or LTP holder.[4] The Exchange proposes to amend Rule 353 to require member applicants to provide two, as opposed to five, letters of reference from responsible persons.[5] According to the Exchange, requiring five letters of reference has proven burdensome and time-consuming for member applicants and often delays the application process. Furthermore, Amex states that the content of such references is of little consequence in an applicant's ultimate approval. Finally, with the availability of more objective background information provided through other resources, such as WEBCRD, FBI fingerprints, and credit reports, Amex believes that the need for these letters of reference has largely been diminished.

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that amending Amex's rules to require two, instead of five, letters of reference is reasonable and consistent with the Act. This amendment should help expedite the application process without significantly diminishing Amex's standards of review with respect to the applicants. Applicants will still need to provide two references, and as Amex noted, there is now more objective background information available through other sources.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Amex–2007–42), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12340 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55925; File No. SR–Amex–2007–44]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, to Amend Section 107D of the *Company Guide*

June 20, 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 May 1, 2007, the American Stock Exchange LLC (''Exchange'' or ''Amex'') 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 May 21, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. On June 14, 2007, the Exchange filed Amendment No. 2 to the proposed rule change. This order provides notice of the proposed rule change and approves the proposed rule change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 107D(g) of the Amex *Company Guide* to expand the eligibility of foreign securities and American Depository Receipts (''ADRs'') that may be components of an underlying index in connection with index-linked securities (''Index-Linked Securities'').[3]

[13] 17 CFR 200.30–3(a)(16).

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55756 (May 14, 2007), 72 FR 28089.

[4] Article IV, Section 1(d) of the Amex Constitution provides that applications for associate membership shall be in a form and manner prescribed by the Exchange. Pursuant to this section, the Exchange currently requires associate member applicants to provide five letters of reference.

[5] The Exchange represented that it intends to reduce the requirement for associate membership applicants from five to two letters of reference to correspond with the proposed change affecting regular, options principal members and LTP holders.

[6] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Section 107D of the Amex *Company Guide* (defining Index-Linked Securities as securities that provide for the payment at maturity of a cash

Continued

The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and *http://www.amex.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to expand the number of permissible securities indexes comprised of foreign securities and/or ADRs that may qualify under Section 107D(g) of the Amex *Company Guide.* Pursuant to Section 107D, which sets forth generic listing standards to permit the listing and trading of Index-Linked Securities pursuant to Rule 19b–4(e) under the Act,[4] the Exchange may list Index-Linked Securities based on an Underlying Index that meet the criteria set forth in paragraph (g) of Section 107D of the Amex *Company Guide.* Specifically, an Underlying Index is required to either be (i) an index meeting the specific criteria set forth in Section 107D(g), or (ii) an index previously approved for the trading of options or other derivative securities by the Commission under Section 19(b)(2) of the Act[5] and rules thereunder.

Section 107D(g) of the Amex *Company Guide* provides the following requirements for the Underlying Index:

(i) Each component security must have a minimum market value of at least $75 million, except that for each of the lowest weighted component securities in the Underlying Index that in the aggregate account for no more than 10% of the weight of the Underlying Index, the market value can be at least $50 million;

(ii) Each component security must have a trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted securities in the Underlying Index that in the aggregate account for no more than 10% of the weight of the Underlying Index, the trading volume must be at least 500,000 shares in each of the last six months;

(iii) In the case of a capitalization-weighted Underlying Index, the lesser of the five highest weighted component securities in the Underlying Index or the highest weighted component securities in the Underlying Index that in the aggregate represent at least 30% of the total number of component securities in the Underlying Index, each of such securities must have an average monthly trading volume of at least 2,000,000 shares over the previous six months;

(iv) No component security may represent more than 25% of the weight of the Underlying Index, and the five highest weighted component securities in the Underlying Index must not in the aggregate account for more than 50% of the weight of the Underlying Index (60% for an Underlying Index consisting of fewer than 25 component securities);

(v) 90% of the Underlying Index's numerical index value and at least 80% of the total number of component securities must meet the then current criteria for standardized options trading set forth in Amex Rule 915;

(vi) Each component security must be an Act reporting company which is listed on a national securities exchange or is traded through the facilities of a national securities system and is subject to last sale reporting; and

(vii) Foreign country securities or ADRs that are not subject to comprehensive surveillance agreements must not in the aggregate represent more than 20% of the weight of the Underlying Index.

The Exchange's experience to date has revealed that it is difficult to list and trade Index-Linked Securities based on an Underlying Index comprised of foreign securities and/or ADRs with respect to which the primary market for such securities is outside of the United States. In particular, subparagraph (g)(vi) of Section 107D of the *Company Guide* prohibits the inclusion of component securities unless each component security is an Act reporting company listed on a national securities exchange or traded through the facilities of a national securities system and is subject to last sale reporting. The Exchange believes that this requirement essentially eliminates the usefulness of the generic listing standard for Index-Linked Securities because it prohibits the use of foreign indexes (not already approved by the Commission) in connection with Index-Linked Securities, unless the underlying components are listed and traded on a United States national securities exchange. Accordingly, the Exchange believes that the requirements set forth in subparagraph (vi) of Section 107D(g) of the Amex *Company Guide* are unduly restrictive to the detriment of the marketplace, as well as the application of the generic listing standard.

The proposal would revise subparagraph (vi) of Section 107D(g) and combine current subparagraphs (vi) and (vii) of this Section. The revision would permit the Exchange to list and trade Index-Linked Securities so long as all component securities are either (A) securities (other than foreign country securities and ADRs) that are (1) issued by a reporting company under the 1934 Act that is listed on a national securities exchange, and (2) ''NMS stock,'' as defined in Rule 600 of Regulation NMS,[6] or (B) foreign country securities or ADRs, provided that the foreign country securities or foreign country securities underlying ADRs having their primary trading market outside the United States on foreign trading markets that are not members of the Intermarket Surveillance Group or are not parties to comprehensive surveillance sharing agreements with the Exchange will not, in the aggregate, represent more than 20% of the dollar weight of the Underlying Index.

The Exchange submits that the expansion of the potential foreign country securities and ADRs that may be components of an eligible Underlying Index underlying Index-Linked Securities should benefit the marketplace and investors. The Exchange believes that the proposal will also enhance the market for potential foreign-based index products listed and traded on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5)

amount based on the performance of an underlying index or indexes (''Underlying Index'')).

[4] Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class. *See* 17 CFR 240.19b–4(e)(1). *See also* Securities Exchange Act Release No. 51563 (April 15, 2005), 70 FR 21257 (April 25, 2005) (SR–Amex–2005–001) (approving the adoption of generic listing standards for Index-Linked Securities).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 242.600(b)(47).

[7] 15 U.S.C. 78f(b).

of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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 Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. 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–2007–44 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–2007–44. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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–Amex–2007–44 and should be submitted on or before July 18, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[10] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission believes that the proposal should expand the use of Underlying Indexes comprised of foreign securities and/or ADRs to the benefit of the marketplace and investors, so long as such component securities, having their respective primary foreign trading markets that are not members of ISG or parties to a comprehensive surveillance sharing agreement, do not represent in the aggregate more than 20% of the overall weight of the Underlying Index.

The Commission finds good cause for approving the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**.[11] The Commission notes that it has previously approved substantially similar provisions with respect to the expanded eligibility of component securities included in indexes underlying index-linked securities[12] and presently is not aware of any regulatory issue that should cause it to revisit that finding or would preclude the trading of such securities on the Exchange. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[13] to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Amex–2007–44), as modified by Amendment Nos. 1 and 2 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12393 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55927; File No. SR–CBOE–2007–55]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Transaction Fees for Electronically Executed Broker-Dealer Orders in IWM and QQQQ Options

June 20, 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 May 29, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

[11] In Amendment No. 2, the Exchange requested for accelerated approval of the proposal.

[12] *See* Securities Exchange Act Release No. 55687 (May 1, 2007), 72 FR 25824 (May 7, 2007) (SR–NYSE–2007–27) (approving, among other things, the eligibility requirements of component securities underlying Equity Index-Linked Securities).

[13] 15 U.S.C. 78s(b)(2).

[14] *Id.*

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the CBOE. 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 CBOE Fees Schedule (''Fees Schedule'') to reduce transaction fees for electronically executed broker-dealer orders in options on the iShares Russell 2000 Index Fund (''IWM'') and the Nasdaq-100 Index Tracking Stock (''QQQQ''). The text of the proposed rule change is available at the CBOE, on the Exchange's Web site at *http://www.cboe.org/legal*, and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the Exchange assesses a transaction fee of $.45 per contract on broker-dealer orders that are electronically executed on the CBOE Hybrid Trading System (''Hybrid'').[3] Manually executed broker-dealer orders are assessed a transaction fee of $.25 per contract.[4] The broker-dealer electronic transaction fee helps allocate to broker-dealer orders a fair share of the costs of running the automatic execution feature of Hybrid and related Exchange systems.

The Exchange proposes to reduce the broker-dealer electronic transaction fee from $.45 per contract to $.25 per contract in IWM and QQQQ options, so that both electronic and manual broker-dealer executions in these products would be assessed $.25 per contract. The Exchange believes it is reasonable and appropriate not to assess a higher fee for electronic broker-dealer executions in IWM and QQQQ options because these options are among the largest options contracts on the Exchange in terms of trading volume and generate significant revenues for the Exchange.

The Exchange implemented the proposed fee changes on June 1, 2007.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(4)[6] of the Act, 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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[7] and subparagraph (f)(2) of Rule 19b–4[8] 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.[9]

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–2007–55 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–2007–55. 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–2007–55 and should be submitted on or before July 18, 2007.

[3] ''Broker-dealer'' orders are defined in Footnote 16 of the Fees Schedule as broker-dealer orders (orders with ''B'' origin code), non-member market-maker orders (orders with ''N'' origin code), and orders from specialists in the underlying security (orders with ''Y'' origin code).

[4] However, electronically and manually executed broker-dealer orders in options on the S&P 100 Index (''OEX'' and ''XEO''), S&P 500 (''SPX''), and Morgan Stanley Retail Index (''MVR'') are charged $.30 per contract, $.40 per contract, and $.25 per contract, respectively. Telephone conversation between Jaime Galvan, Assistant Secretary, CBOE, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on June 18, 2007.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12388 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55926; File No. SR–CBOE–2007–61]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the iShares Russell 2000 Index Fund (IWM) Option Pilot Program Until January 18, 2008

June 20, 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 June 12, 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 Exchange. The Exchange filed the proposed rule change as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act 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

CBOE proposes to extend an existing pilot program that increases the position and exercise limits for options on the iShares Russell 2000 Index Fund (''IWM options'') traded on the Exchange (''IWM Option Pilot Program''). The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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 purpose of the proposed rule change is to extend the IWM Option Pilot Program for an additional six-month period, through January 18, 2008,[5] and to make non-substantive changes to simplify the rule text describing the IWM Option Pilot Program. The IWM Option Pilot Program increases the position and exercise limits for IWM options traded on the Exchange.[6] The Exchange is not proposing any other changes to the IWM Option Pilot Program. The Exchange represents that it has not encountered any problems or difficulties relating to the IWM Option Pilot Program since its inception.

The proposal that established the IWM Option Pilot Program was designated by the Commission to be effective and operative upon filing and provided that it would run from January 22, 2007 through July 22, 2007.[7] In that filing, the Exchange explained that in June 2005, as a result of a 2-for-1 stock split, the position limit for IWM options was temporarily increased from 250,000 contracts (covering 25,000,000 IWM shares) to 500,000 contracts (covering 50,000,000 IWM shares). At the time of the split, the furthest IWM option expiration date was January 2007. Therefore, the temporary position limit increase was scheduled to automatically revert to the pre-split level (as provided for in connection with the Rule 4.11 Pilot Program) of 25,000 contracts after expiration in January 2007.

As the Exchange described in the proposal that established the IWM Option Pilot Program, the Exchange believes that a position limit of 250,000 option contracts would prevent traders from adequately hedging their options positions, thereby impairing their ability to provide liquidity. Specifically, the Exchange stated that IWM options are 1/10 the size of options on the Russell 2000 Index (''RUT''), which have a position limit of 50,000 contracts.[8] Therefore, traders who trade IWM options to hedge positions in RUT options are likely to find a position limit of 250,000 contracts in IWM options too restrictive and insufficient to properly hedge. For example, if a trader held 50,000 RUT options and wanted to hedge that position with IWM options, the trader would need, at a minimum, 500,000 IWM options to properly hedge the position. The Exchange additionally notes that index options on 1/10 the RUT have a position limit of 500,000 contracts, which is consistent with and corresponds to the increased position limits permitted under the IWM Option Position Limit Pilot.[9] Therefore, the Exchange continues to believe that a position limit of 250,000 contracts is too low and may adversely affect market participants' ability to provide liquidity in this product.

As the Exchange also described in the proposal that established the IWM Option Pilot Program, IWM options have grown to become one of the largest options contracts in terms of trading volume. For example, through May 29, 2007, year-to-date industry volume in IWM options has averaged over 460,000 contracts per day, for a total of over 61 million contracts. CBOE alone has averaged almost 250,000 IWM option contracts per day during that time, for a total of almost 33 million contracts. In contrast, QQQQ options, which have a position limit of 900,000 contracts, have averaged almost 575,000 contracts per day in 2007.

The Exchange believes that maintaining the increased position and exercise limits for IWM options will lead to a more liquid and more competitive market environment for IWM options that will benefit customers interested in this product. In fact, the Exchange has received positive feedback from market participants, who have expressed a desire that the IWM Option Pilot Program be renewed. For these reasons, the Exchange believes that the above stated reasons justify the IWM

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] January 18, 2008 is the third Friday of the month (or expiration Friday), which is the day on which January 2008 IWM options will expire.

[6] Exercise limits for IWM options are equivalent to the position limits prescribed for IWM options in Rule 4.11.07 and the increased exercise limits are only in effect during the IWM Option Pilot Period. *See* Rule 4.12.02.

[7] *See* Securities Exchange Act Release No. 55176 (January 25, 2007), 72 FR 4741 (February 1, 2007).

[8] *See* Rule 24.4(a).

[9] *See id.*

Option Pilot Program and requests that the Commission extend the IWM Option Pilot Program for an additional six-month time period, through January 18, 2008.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, because it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, 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 would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days 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), the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

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 the 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–2007–61 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–2007–61. 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–2007–61 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12394 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55936; File No. SR–ISE–2007–32]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating To Removing Certain Rules From Its Rulebook

June 21, 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 May 9, 2007, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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. On June 8, 2007, ISE filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to remove certain inconsequential ISE rules for which there is no corresponding National Association of Securities Dealers (''NASD'') rule. The text of the proposed rule change is below. Proposed new language is *in italics;* proposed deletions are enclosed in brackets.

* * * * *

Rule 403. *Reserved.*[Nominal Employment

No Member may employ any person in a nominal position on account of business obtained by such person.]

Rule 605. *Reserved.*[Other Affiliations of Registered Persons

Except with the express written permission of the Exchange, every registered person shall devote his entire time during business hours to the business of the Member employing him, or to the business of its affiliates that are engaged in the transaction of business as a broker or dealer in securities or commodities or in such other businesses as have been approved by the Member's designated examining authority.]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 is incorporated in this notice.

Rule 615. *Reserved.*[Addressing of Communications to Customers

No Member shall address any communications to a customer in care of any other person unless either (i) the customer, within the preceding twelve (12) months, has instructed the Member in writing to send communications in care of such other persons, or (ii) duplicate copies are sent to the customer at some other address designated in writing by him.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to rescind certain inconsequential ISE rules. The Exchange has recently entered into an amended and restated 17d–2 Agreement with the National Association of Securities Dealers (''NASD''), whereby the NASD has assumed regulatory and enforcement responsibilities for dual members with respect to common rules delineated in the Agreement.[4] During the course of amending this Agreement, the Exchange came across some common rules that the ISE needed to amend in order to conform the language to the corresponding NASD rule [5] and a few rules which are not common to the NASD rules and are not specific to or necessary for the Exchange's marketplace or membership. Accordingly, the Exchange proposes to remove the following rules from its rulebook: Rule 403 (Nominal Employment), Rule 605 (Other Affiliations of Registered Persons), and 615 (Addressing of Communications to Customers).

The Exchange seeks to rescind Rule 403 (Nominal Employment) because the rule is narrowly drafted to prohibit members from obtaining business by employing a person in a nominal position. The Exchange believes that Rule 406 (Gratuities) better addresses this issue by prohibiting a member from giving any compensation or gratuities in any one year in excess of $100 to any employee of any other member or of any non-member broker, dealer, bank or institution, without the prior consent of the employer and of the Exchange.

Additionally, the Exchange seeks to rescind Rule 605 (Other Affiliations of Registered Persons) because the Exchange believes it is an antiquated rule and due to significant changes in market structure, the Exchange no longer believes it necessary to limit registered persons activities during business hours. Further, the NASD has no comparable rule and, as discussed above, the Exchange has entered into a 17d–2 Agreement with the NASD to monitor and enforce common rules, including, but not limited to, rules governing Registered Persons.

Lastly, the Exchange seeks to rescind Rule 615 (Addressing of Communications to Customers) because the Exchange believes that broker-dealers that do a public business are better equipped to set their own policies and procedures governing communications with customers that are applicable to their business. Pursuant to ISE Rule 2114 (Doing Business with the Public) ISE members that do business with the public are required to also be a member of the NASD. The NASD requires broker-dealers to have written supervisory procedures covering areas such as, communications with the public and customer account statements. Additionally, those members must also comply with NASD rules, which the Exchange believes sufficiently address this topic.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is found in Section 6(b)(5).[6] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, 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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–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–ISE–2007–32. This file number should be included in the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use

[4] *See* Securities Exchange Act Release No. 55367 (February 27, 2007), 72 FR 9983 (March 6, 2007) (Order approving and declaring effective a plan for the allocation of regulatory responsibilities between ISE and NASD).

[5] *See* Securities Exchange Act Release No. 55751 (May 11, 2007), 72 FR 27884 (May 17, 2007) (Proposal to amend ISE rules to conform such rules to their corresponding NASD rules).

[6] 15 U.S.C. § 78f(b).

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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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 the File Number SR–ISE–2007–32 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12390 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55924; File No. SR–NASDAQ–2007–050]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 To Modify the Minimum Shareholder Requirement for Initial Listing on the Nasdaq Global Select Market

June 19, 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 May 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 and II below, which Items have been substantially prepared by Nasdaq. On June 19, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] Nasdaq has filed this proposal pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders it effective upon filing with the Commission. The Commission is publishing this notice, as amended, 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.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to modify the minimum shareholder requirement for initial listing on the Nasdaq Global Select Market.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.[6]

* * * * *

4426. Nasdaq Global Select Market Listing Requirements

(a) No change.

(b) Liquidity Requirements

(1) The security must demonstrate either:

(A)–(B) No change.

(C) A minimum of 450 beneficial *round lot* shareholders[, in the case of:

(i) An issuer listing in connection with a court-approved reorganization under the federal bankruptcy laws or comparable foreign laws; or

(ii) An issuer that is affiliated with another company listed on the Global Select Market].

(2)–(3) No change.

(c)–(f) 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.

[3] Partial Amendment No. 1 replaced a footnote in the original filing. *See infra* note 8.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *http://www.complinet.com/nasdaq.*

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 4426(b) sets forth the liquidity requirements for the Nasdaq Global Select Market. Among the requirements set out in that rule is the requirement that for initial listing on the Global Select Market, a security must have either (i) 2,200 beneficial shareholders or (ii) 550 beneficial shareholders and a minimum trading volume of at least 1.1 million shares per month over the prior year. In addition, companies listing in connection with a court-approved reorganization and companies affiliated with other Global Select Market companies can list on the Global Select Market if their security has a minimum of 450 beneficial shareholders.

These requirements for the Global Select Market were adopted to be similar to, but higher than, the requirements for initial listing on the New York Stock Exchange (''NYSE''). In August 2006, the NYSE revised its listing standards to reduce the required number of round lot holders for initial listing from 2,000 to 400.[7] The NYSE stated that it made this change based on changes in the composition of the investor population in the time since it adopted the 2,000 holder requirement, such that fewer shareholders are necessary to provide liquidity in a security.

Given the change to the NYSE requirements, Nasdaq now proposes to modify the liquidity requirement for the Global Select Market to permit a security to list if the security has a minimum of 450 beneficial round lot shareholders and satisfies the other requirements for initial listing.[8] Nasdaq notes that this requirement remains higher than the revised NYSE requirement and the requirement for listing on the Nasdaq Global Market. Given Nasdaq's experience with the 400 round lot holder requirement for initial and continued listing on the Nasdaq

[7] *See* Securities Exchange Act Release No. 54350 (August 22, 2006), 71 FR 51259 (August 29, 2006) (SR–NYSE–2006–64).

[8] In addition to the proposed criteria described above, Nasdaq would maintain the existing alternative criteria to permit listing a security that has either: (i) 2,200 beneficial shareholders; or (ii) 550 beneficial shareholders and a minimum trading volume of at least 1.1 million shares per month over the prior year. Nasdaq proposes to eliminate the alternative requirement for companies emerging from bankruptcy or affiliated with another listed company. Thus, as proposed, all companies, including companies emerging from bankruptcy and companies affiliated with another listed company, would be required to meet one of the three alternative standards.

Global Market, Nasdaq does not believe that this change would result in any adverse impact on liquidity or on investors. Further, Nasdaq notes that the revised requirements exceed the requirements set forth in Rule 3a51–1(a)(2) under the Act.[9]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general, and with Section 6(b)(5) of the Act,[11] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Nasdaq believes the proposed change would continue to maintain appropriate minimum liquidity requirements for companies seeking to list on the Nasdaq Global Select Market, while also recognizing changes in the market that allow such liquidity with fewer shareholders.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b-4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Nasdaq has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Specifically, the Commission believes that the proposal would allow Nasdaq to have similar holder requirements as other exchanges and the Nasdaq Global Market.[15] Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.[16]

At any time within 60 days of the filing of the amended proposed rule change, the Commission may summarily abrogate such proposed 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.[17]

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–2007–050 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2007–050. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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–NASDAQ–2007–050 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

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BILLING CODE 8010–01–P

[9] 17 CFR 240.3a51–1(a)(2) (excluding from the term ''penny stock'' certain securities).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* note 7 *supra* and accompanying text.

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on June 19, 2007, the date on which Nasdaq submitted Amendment No. 1.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55937; File No. SR–ASDAQ–2007–001]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 2 to Amend Nasdaq's ''Clearly Erroneous'' Rule

June 21, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 22, 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. On June 1, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] On June 12, 2007, Nasdaq filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to clarify the applicability of Nasdaq Rule 11890 to transactions resulting from unauthorized or manipulative trading activity. Nasdaq will implement the proposed rule change immediately upon approval by the Commission.

The text of the proposed rule change is below. Proposed new language is *italicized*; proposed deletions are in brackets.

* * * * *

11890. Clearly Erroneous Transactions

(a) Authority to Review Transactions Pursuant to Complaint of Market Participant

(1) Scope of Authority

(A) Subject to the limitations described in paragraph (a)(2)[(C)]*(D)* below, [officers] *officials* of Nasdaq designated by its President shall, pursuant to the procedures set forth in paragraph (a)(2) below, have the authority to review any transaction arising out of the use or operation of any execution or communication system owned or operated by Nasdaq and approved by the Commission[, including transactions entered into by a member of a national securities exchange with unlisted trading privileges in Nasdaq-listed securities (a ''UTP Exchange'') through such a system]; provided, however, that the parties to the transaction must be readily identifiable by Nasdaq through its systems. A Nasdaq [officer] *official* shall review transactions with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Based upon this review, the [officer] *official* shall decline to act upon a disputed transaction if [the officer] *he or she* believes that the transaction under dispute is not clearly erroneous. If the [officer] *official* determines the transaction in dispute is clearly erroneous, however, he or she shall declare that the transaction is null and void or modify one or more terms of the transaction. When adjusting the terms of a transaction, the Nasdaq [officer] *official* shall seek to adjust the price and/or size of the transaction to achieve an equitable rectification of the error that would place the parties to a transaction in the same position, or as close as possible to the same position, as they would have been in had the error not occurred. For the purposes of this Rule, the terms of a transaction are clearly erroneous if:

(i) the transaction is eligible for review under the Rule*,* and [if]

(ii) either

a. there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security*, or*

b. the person seeking review of the transaction has represented that it resulted from an order submitted by a person that was not authorized to submit that order into Nasdaq or from an account used for the purpose of effecting a manipulation of the market for the security.

(2) Procedures for Reviewing Transactions

(A) *Except as provided in paragraph (a)(2)(B),* [A]*a*ny member[, member of a UTP Exchange,] or person associated with a[ny such] member that seeks to have a transaction reviewed pursuant to paragraph (a)(1) hereof shall submit a written complaint to Nasdaq MarketWatch in accordance with the following time parameters:

(i) for transactions occurring at or after 9:30 a.m.[, Eastern Time], but prior to 10:00 a.m.[, Eastern Time], complaints must be received by Nasdaq by 10:30 a.m.[, Eastern Time]; and

(ii) for transactions occurring *at any other time* [prior to 9:30 a.m., Eastern Time and at or after 10:00 a.m., Eastern Time], complaints must be received by Nasdaq within thirty minutes of execution time.

(B) *In the case of an Outlier Transaction, a member or person associated with a member that seeks to have a transaction reviewed pursuant to paragraph (a)(1) hereof shall submit a written complaint to Nasdaq MarketWatch in accordance with the following time parameters:*

(i) for transactions occurring at or after 9:30 a.m. but prior to 10:00 a.m., complaints must be received by Nasdaq by 11:30 a.m.;

(ii) *for transactions occurring prior to 9:30 a.m. or between 10:00 a.m. and the close of the Regular Session, complaints must be received by Nasdaq within ninety minutes of execution time; and*

(iii) *for transactions occurring after the close of the Regular Session, complaints must be received by Nasdaq prior to 9:30 a.m. the next trading day.*

[(B)](C) Once a complaint has been received in accord with paragraph (a)(2)(A) *or (B)* above, the complainant shall have up to thirty (30) minutes, or such longer period as specified by Nasdaq staff, to submit any supporting written information concerning the complaint necessary for a determination under paragraph (a)(1). Such supporting information must include the approximate time of transaction(s), security symbol, number of shares, price(s), contra broker(s) if the transactions are not anonymous, Nasdaq system used to execute the transactions, and *the factual basis for believing that the trade is clearly erroneous* [the reason the review is being sought]. If Nasdaq receives a complaint that does not contain all of the required supporting information, Nasdaq shall immediately notify the filer that the complaint is deficient.

[(C)]*(D)* Following the expiration of the period for submission of supporting material, a Nasdaq [officer] *official* shall determine whether the complaint is eligible for review. A complaint shall not be eligible for review under paragraph (a) unless:

(i) the complainant has provided all of the supporting information required under paragraph (a)(2)[(B)]*(C),* and

(ii) For trades in Nasdaq securities executed *during the Regular Session* [between 9:30 a.m. and 4:00 p.m. Eastern Time], or trades in non-Nasdaq securities executed *during the Regular Session after* [between the time when] the [p]*P*rimary [m]*M*arket for the security first posts an executable two-side quote [for its regular market trading session and 4:00 p.m. Eastern Time], the price of *a* transaction to buy (sell) that is the subject of the complaint is greater than (less than) the [best offer (best bid)] *Inside Price* by an amount that equals or exceeds the minimum threshold set forth below:

Inside price	Minimum threshold
$0–$0.99	$0.02 + (0.10 × Inside Price)
$1.00–$4.99	$0.12 + (0.07 × (Inside Price − $1.00))
$5.00–$14.99	$0.40 + (0.06 × (Inside Price − $5.00))

[1] 5 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the proposed rule change in its entirety. Nasdaq withdrew Amendment No. 1 on June 14, 2007.

[4] Amendment No. 2 replaced the proposed rule change in its entirety.

Inside price	Minimum threshold
$15 or more	$1.00

[For a transaction to buy (sell) a Nasdaq security, the inside price shall be the best offer (best bid) in Nasdaq at the time that the first share of the order that resulted in the disputed transaction was executed, and for a transaction to buy (sell) a non-Nasdaq security, the inside price shall be the national best offer (best bid) at the time that the first share of the order that resulted in the disputed transaction was executed. A ''Nasdaq security'' means a security for which transaction reports are disseminated under the Nasdaq UTP Plan, and a ''non-Nasdaq security'' means a security for which transaction reports are disseminated under the Consolidated Tape Association Plan. The ''primary market'' for a non-Nasdaq Security is the market designated as the primary market under the Consolidated Tape Association Plan.]

[(D)]*(E)* If a complaint is determined to be eligible for review, the counterparty to the trade shall be notified of the complaint via telephone *or other method permitted by paragraph (d)* by Nasdaq staff and shall have up to thirty (30) minutes, or such longer period as specified by Nasdaq staff, to submit any supporting written information concerning the complaint necessary for a determination under paragraph (a)(1). Either party to a disputed trade may request the written information provided by the other party pursuant to paragraph (a)(2).

[(E)]*(F)* Notwithstanding paragraphs (a)(2)[(B)]*(C)* and [(D)]*(E)* above, once a party to a disputed trade communicates that it does not intend to submit any further information concerning a complaint, the party may not thereafter provide additional information unless requested to do so by Nasdaq staff. If both parties to a disputed trade indicate that they have no further information to provide concerning the complaint before their respective thirty-minute information submission period has elapsed, then the matter may be immediately presented to a Nasdaq [officer] *official* for a determination pursuant to paragraph (a)(1) above.

[(F)]*(G)* Each member[, member of a UTP Exchange,] or person associated with a[ny such] member involved in the transaction shall provide Nasdaq with any information that it requests in order to resolve the matter on a timely basis notwithstanding the time parameters set forth in paragraphs (a)(2)[(B)]*(C)* and [(D)]*(E)* above.

[(G)]*(H)* Once a party has applied to Nasdaq for review and the transaction has been determined to be eligible for review, the transaction shall be reviewed and a determination rendered, unless (i) both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered pursuant to paragraph (a)(1), or (ii) the complainant withdraws its application for review prior to the notification of counterparties pursuant to paragraph (a)(2)[(D)]*(E)*.

(b) Procedures for Reviewing Transactions on Nasdaq's Own Motion.

In the event of (i) a disruption or malfunction in the use or operation of any quotation, execution, communication, or trade reporting system owned or operated by Nasdaq and approved by the Commission, or (ii) extraordinary market conditions or other circumstances in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, the President of Nasdaq or any Executive Vice President designated by the President may, on his or her own motion, review any transaction arising out of or reported through any such quotation, execution, communication, or trade reporting system[, including transactions entered into by a member of a UTP Exchange through the use or operation of such a system, but excluding transactions that are entered into through, or reported to, a UTP Exchange]. A Nasdaq officer acting pursuant to this subsection may declare any such transaction null and void or modify the terms of any such transaction if the officer determines that (i) the transaction is clearly erroneous, or (ii) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, that the officer [must] *shall* take action pursuant to this subsection [within thirty (30) minutes of] *as soon as possible after* detection of the transaction except in the event of extraordinary circumstances, in which event the officer must take action by [3:00 p.m.,]*9:30 a.m.* [Eastern Time,] on the next trading day following the date of the transaction at issue.

(c) Review by the Market Operations Review Committee (''MORC'')

(1) Subject to the limitations described in paragraph (c)(2), a member[, member of a UTP Exchange,] or person associated with a[ny such] member may appeal a determination made under paragraph (a) to the MORC. A member[, member of a UTP Exchange,] or person associated with a[ny such] member may appeal a determination made under paragraph (b) to the MORC unless the officer making the determination also determines that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. An appeal must be made in writing, and must be received by Nasdaq within thirty (30) minutes after the person making the appeal is given the notification of the determination being appealed, except that if Nasdaq notifies the parties of action taken pursuant to paragraph (b) after 4:00 p.m., the appeal must be received by Nasdaq by 9:30 a.m. the next trading day. Once a written appeal has been received, the counterparty to the trade that is the subject of the appeal will be notified of the appeal and both parties shall be able to submit any additional supporting written information up until the time the appeal is considered by the MORC. Either party to a disputed trade may request the written information provided by the other party during the appeal process. An appeal to the MORC shall not operate as a stay of the determination being appealed, and the scope of the appeal shall be limited to trades which the person making the appeal is a party. Subject to the limitations described in paragraph (c)(2), once a party has appealed a determination to the MORC, the determination shall be reviewed and a decision rendered, unless (i) both parties to the transaction agree to withdraw the appeal prior to the time a decision is rendered by the MORC, or (ii) the party filing the appeal withdraws its appeal prior to the notification of counterparties under this paragraph (c)(1). Upon consideration of the record, and after such hearings as it may in its discretion order, the MORC, pursuant to the standards set forth in this rule, shall affirm, modify, reverse, or remand the determination.

(2) If a Nasdaq [officer] *official* determines under paragraph (a)(2)[(C)]*(D)* that a transaction is not eligible for review, a party appealing such determination must allege in its appeal a mistake of material fact upon which it believes the [officer's] *official's* determination was based. If the MORC concludes that an appeal of such a determination does not allege a mistake of material fact, the determination shall become final and binding. If the MORC concludes that an appeal of such a determination alleges a mistake of material fact, Nasdaq shall notify the counterparty to the transaction and the determination shall be reviewed by the MORC as provided under paragraph (c)(1). If the MORC then finds that the

determination was based on a mistake of material fact, the MORC shall remand the matter for adjudication under paragraph (a); otherwise, the determination shall become final and binding.

(3) The decision of the MORC pursuant to an appeal, or a determination by a Nasdaq [officer] *official* that is not appealed, shall be final and binding upon all parties and shall constitute final Nasdaq action on the matter in issue. Any determination by a Nasdaq [officer] *official* pursuant to paragraph (a) or (b) or any decision by the MORC pursuant to paragraph (c) shall be rendered without prejudice as to the rights of the parties to the transaction to submit their dispute to arbitration.

(4) The party initiating the appeal shall be assessed a $500.00 fee if the MORC upholds the decision of the Nasdaq [officer] *official*. 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) Communications

(1) All materials submitted to Nasdaq or the MORC pursuant to this Rule shall be submitted within the time parameters specified herein via such telecommunications procedures as Nasdaq may announce from time to time in a[n] Notice to Members or Head Trader Alert. Materials shall be deemed received at the time indicated by the telecommunications equipment (e.g., facsimile machine or computer) receiving the materials. Nasdaq, in its sole and absolute discretion, reserves the right to reject or accept any material that is not received within the time parameters specified herein. *All times stated in this rule and related Interpretive Material are Eastern Time.*

(2) Nasdaq shall provide affected parties with prompt notice of determinations under this Rule via facsimile machine, electronic mail, or telephone (including voicemail); provided, however, that if an officer nullifies or modifies a large number of transactions pursuant to paragraph (b), Nasdaq may instead provide notice to parties via Nasdaq telecommunications protocols, a press release, or any other method reasonably expected to provide rapid notice to many market participants.

(e) Definitions

For purposes of this Rule and related Interpretive Material:

(1) ''Inside Price'' means:

(A) for a transaction to buy (sell) a Nasdaq security, the best offer (best bid) in Nasdaq at the time that the first share of an order or the first share of a series of orders that resulted in disputed transactions was executed, and

(B) for a transaction to buy (sell) a non-Nasdaq security, the national best offer (best bid) at the time that the first share of an order or the first share of a series of orders that resulted in the disputed transactions was executed.

(2) ''Nasdaq security'' means a security for which transaction reports are disseminated under the Nasdaq UTP Plan.

(3) ''Non-Nasdaq security'' means a security for which transaction reports are disseminated under the Consolidated Tape Association Plan.

(4) ''Outlier Transaction'' means a transaction that:

(A) is executed at a price that meets the following parameters:

(i) in the case of a transaction for a Nasdaq security executed during the Regular Session, the price is 50% or more away from the Inside Price;

(ii) in the case of a transaction for a non-Nasdaq security executed during the Regular Session after the Primary Market has posted its first two-sided quote, the price is 50% or more away from the Inside Price;

(iii) in the case of a transaction for a Nasdaq security or non-Nasdaq security executed outside of the Regular Session, or a non-Nasdaq security executed during the Regular Session before the Primary Market has posted its first two-sided quote, the price is 50% or more away from the closing price of the security in the most recent Regular Session; and

(B) the loss value of all transactions at issue in the complaint exceeds $10,000. The loss value is measured by multiplying the number of shares by the difference between the execution price and price with which the execution price is compared under paragraph (e)(4)(A).

(5) ''Primary Market'' means:

(A) for a Nasdaq security, the Nasdaq Market Center, and

(B) for a non-Nasdaq Security, the market designated as the primary market under the Consolidated Tape Association Plan.

(6) ''Regular Session'' means the primary trading session for a particular security on its Primary Market, which is generally 9:30 a.m. through 4:00 or 4:15 p.m.

IM–11890–1. Refusal to Abide by Rulings of a Nasdaq [Officer] *Official* or the MORC

It shall be considered conduct inconsistent with just and equitable principles of trade for any member to refuse to take any action that is necessary to effectuate a final decision of a Nasdaq [officer] *official* or the MORC under Rule 11890.

IM–11890–2. Review by Panels of the MORC

For purposes of Rule 11890 and other Nasdaq Rules that permit review of Nasdaq decisions by the MORC, a decision of the MORC may be rendered by a panel of the MORC. In the case of a review of a determination by a Nasdaq [officer] *official* under Rule 11890(a)(2)[(C)]*(D)* that a transaction is not eligible for review (including a review of the sufficiency of allegations contained in an appeal regarding such a determination), the panel may consist of one or more members of the MORC, provided that no more than 50 percent of the members of any panel are directly engaged in market making activity or employed by a member whose revenues from market making activity exceed ten percent of its total revenues. In all other cases, the panel shall consist of three or more members of the MORC, provided that no more than 50 percent of the members of any panel are directly engaged in market making activity or employed by a member firm whose revenues from market making activity exceed ten percent of its total revenues.

IM–11890–3. Application of Rule 11890(a)(2)[(C)]*(D)*

The following example is intended to assist market participants in understanding the minimum price deviation thresholds in paragraph (a)(2)[(C)]*(D)* and their effect on the eligibility of transactions for review under Rule 11890.

ABCD, a Nasdaq [listed] security, has an [i]*Inside* [market]*Price* of (bid) $12.00–$12.05 (ask). Market Maker A (MMA) enters a market order to buy 10,000 shares, although it had intended a market order for 1,000 shares. The size of the order is such that the order 'sweeps' the Nasdaq Market Center order file, which reflects 1,000 shares of liquidity offered at each of ten prices ranging from $12.05 to $12.95. Executions occur, moving through the depth of file, as follows:

Trade #1—1000 shares @ $12.05 (9000 remaining).
Trade #2—1000 shares @ $12.10 (8000 remaining).
Trade #3—1000 shares @ $12.15 (7000 remaining).
Trade #4—1000 shares @ $12.25 (6000 remaining).
Trade #5—1000 shares @ $12.35 (5000 remaining).
Trade #6—1000 shares @ $12.45 (4000 remaining).

Trade #7—1000 shares @ $12.55 (3000 remaining).
Trade #8—1000 shares @ $12.65 (2000 remaining).
Trade #9—1000 shares @ $12.90 (1000 remaining).
Trade #10—1000 shares @ $12.95 (complete).

The inside offer at the time the first share of the order was executed is $12.05, so the minimum price deviation threshold is determined using the following formula: $0.40 + (0.06 × (Inside Price − $5.00)) = $0.40 + (0.06 × ($12.05 − $5.00)) = $0.82. Thus, to be eligible for review, a transaction must be at a price that is at least $0.82 higher than the original best offer price (i.e., $12.05 + $0.82 = $12.87). MMA could petition for review of trades #9 and #10, priced at $12.90 and $12.95 respectively, but trades #1 through #8 would not be eligible for review. The sole basis for an appeal to the MORC of the determination that trades #1 through #8 are not eligible for review would be an assertion of a mistake of material fact. For example, an appeal could be based upon an assertion that the Nasdaq [officer] *official* had made an arithmetical error in determining the minimum price deviation threshold, or had erred in determining the applicable [inside price] *Inside Price.*

IM–11890–4. Clearly Erroneous Transaction Guidance for Filings under Rule 11890(a) and Single Stock Events under Rule 11890(b)

Nasdaq is providing the following guidance on how it [generally] considers:

- all complaints filed by market participants under Rule 11890(a); and
- [many] *most* events involving a single security considered on Nasdaq's own motion pursuant to Rule 11890(b).

Nasdaq generally considers a transaction to be clearly erroneous when the print is substantially inconsistent with the market price *that existed* at the time of execution *of the first share of one or a series of orders that resulted in disputed transactions. Nasdaq would not consider a trade clearly erroneous, and therefore would not break or modify it, if it was priced within a range of the preceding market price, as described in detail below.* In making such a determination, Nasdaq takes into account the circumstances at the time of the transaction, the maintenance of a fair and orderly market, and the protection of investors and the public interest. Participants in Nasdaq are responsible for ensuring that the appropriate price and type of order are entered into Nasdaq's systems. Simple assertion by a firm that it made a mistake in entering an order or a quote, or that it failed to pay attention or to update a quote, may not be sufficient to establish that a transaction was clearly erroneous.

Numerical Factors for Review

Nasdaq primarily considers the execution price of a trade in determining whether it is clearly erroneous, *and breaks trades that are more than a specified percentage away from a Reference Price that is indicative of prior market conditions. The range away from a Reference Price beyond which trades may be broken is referred to as the Numerical Threshold. As a corollary to this policy, Nasdaq does not break trades that are at the Numerical Threshold or between the Reference Price and the Numerical Threshold, as set forth in the chart below.*

Execution Price	[Range Away from Reference Price] *Numerical Threshold—Regular Session*	*Numerical Threshold—Outside Regular Session*
$0.20 and under	*The minimum threshold required for adjudication under Rule 11890(a)(2)(D)(ii).*	*The minimum threshold that would be required for adjudication under Rule 11890(a)(2)(D)(ii) if it were applicable outside of the Regular Session*
Over $0.20 and up to $1.75 [and under]	[Equal to or greater than t]*T*he minimum threshold required for adjudication under Rule 11890(a)(2)[(C)](*D*)(ii).	*20%*
Over $1.75 and up to $25	10%	*20%*
Over $25 and up to $50	5%	*10%*
Over $50	3%	*6%*

Nasdaq uses [different] Reference Prices based on the time of the trade and the listing venue of the security in order to establish an appropriate comparison point. These Reference Prices are detailed below.

[In unusual circumstances, however, Nasdaq may use a different Reference Price.]

Time of Trade and Listing Venue	Reference Price
Nasdaq[-listed] securities *during* [for trades executed between 9:30 am and 4:00 pm Eastern Time (''Regular Session[''])].	*Inside Price* [The best bid (best offer) (''BBO'') in Nasdaq at the time of execution of first share of the disputed order]
Non-Nasdaq[-listed] securities for trades executed during Regular Session and after [p]*P*rimary [m]*M*arket has posted first two-sided quote.	*Inside Price* [The national BBO at the time of execution of first share of the disputed order]
Non-Nasdaq[-listed] securities for trades executed during Regular Session and before [p]*P*rimary [m]*M*arket has posted first two-sided quote.	*Inside Price* [The national BBO at the time of execution of first share of the disputed order]. If [national BBO]*the Inside Price* does not appear substantially related to *the* market, Nasdaq may consider other Reference Prices including the opening trade, indication of interest and first two-sided quote in the [p]*P*rimary [m]*M*arket (which may occur after the execution) and the closing price for the prior Regular Session [for the security's primary market].
Nasdaq[-listed] *securities* and non-Nasdaq[-listed] securities *outside of Regular Session* [for trades executed after 4:00 pm and before 9:30 am Eastern Time].	Closing price of security for the last Regular Session on the security's [p]*P*rimary [m]*M*arket. *If the closing price does not appear substantially related to the market, Nasdaq may consider other References Prices, including the prices of other trades in the trading session or the Inside Price.*

In unusual circumstances, Nasdaq may use a different Reference Price in determining which trades to break. For example, in the case of several large orders that execute at multiple prices, a Reference Price based on a weighted average of the best bid (best offer) (''BBO'') at relevant times may be used rather than a Reference Price based solely on the Inside Price.

It may also be necessary to use a higher Numerical Threshold if, after market participants have been alerted to the existence of erroneous activity, the price of the security returns toward its prior trading range but continues to trade beyond the price at which trades would normally be broken. Nasdaq also may use different Numerical Thresholds in events that involve other markets in an effort to coordinate a Numerical Threshold that is consistent across markets.

Finally, Nasdaq could break or adjust all trades in a security if a pervasive mistake resulted in trading that should not have occurred. For example, trades in a security that was incorrectly authorized for trading prior to the date of its actual initial public offering would all be broken. Similarly, if Nasdaq systems executed orders in the Nasdaq opening cross or closing cross at a price that was inconsistent with the rules governing the operation of the crosses, either due to a Nasdaq system error or because an underlying erroneous order resulted in an erroneous opening or closing price, Nasdaq may break or adjust all of the affected trades.

Additional Factors

In occasional circumstances, Nasdaq may consider additional factors in determining whether a transaction is clearly erroneous (*provided the applicable Numerical Threshold is exceeded*). These include:

- Material news released for the security
- Suspicious trading activity
- System malfunctions or disruptions
- Locked or crossed markets
- Trading in the security was recently halted/resumed
- The security is an initial public offering
- Volume and volatility for the security
- Stock-split, reorganization or other corporate action
- Validity of consolidated tape trades and quotes and Nasdaq BBO comparison to national BBO
- General volatility of market conditions
- Reason for the error

Suspicious Trading Activity

As reflected in Rule 11890(a)(1)(A), Nasdaq may determine that a transaction is clearly erroneous if the person seeking review has represented that it resulted from an order submitted by a person that was not authorized to submit that order into Nasdaq or from an account used for the purpose of effecting a manipulation of the market for the security. Nasdaq may adjudicate such transactions under Rule 11890(a), or may address them under Rule 11890(b) if their effect on the market is such that nullification or modification of a large number of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest.

While an assertion of suspicious trading activity may provide the basis for reviewing transactions, it does not provide a basis for altering the application of the factors used in determining whether to nullify or modify trades. Thus, the minimum price threshold required for adjudication under Rule 11890(a)(2)(D)(ii) would be applicable in the case of unauthorized or manipulative transactions being adjudicated under Rule 11890(a). Moreover, Nasdaq would apply the Numerical Thresholds described above in determining which trades to break. For example, if the best offer in a security during the Regular Session was $20 prior to the execution of the first share of a series of unauthorized buy orders that executed at prices ranging from $20 to $30, the usual Numerical Threshold would be 10%, or $22.00, and trades above that price could be broken.

Additional Information Concerning Rule 11890(b)

Nasdaq may on its own motion review transactions in any security in the event of:

- A disruption or malfunction in the use or operation of any quotation, execution, communication, or trade reporting system owned or operated by Nasdaq and approved by the SEC;
- Extraordinary market conditions or other circumstances in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest.

Consequently, Rule 11890(b) is focused on systemic problems that involve large numbers of parties or trades, or market conditions where it would not be in the best interests of the market to proceed under the processes set forth in Rule 11890(a). Sometimes events involving a single security will meet the standards of Rule 11890(b). However, market participants should not assume that Rule 11890(b) will be available where, for example, they failed to file a complaint within the time periods specified in Rule 11890(a). The rule could be available, however, in cases where a trade not eligible for adjudication under Rule 11890(a) nevertheless could present systemic risks if permitted to stand.

The guidance set forth in IM–11890–4 applies to many events involving a single security adjudicated pursuant to Rule 11890(b). However, Nasdaq may apply the guidance set forth in IM–11890–5 to some events involving a single security, such as some situations where trading activity occurs in multiple market centers and Nasdaq is acting in consultation with other markets.

IM–11890–5. Clearly Erroneous Transaction Guidance for Multi-Stock Events

Nasdaq is providing the following guidance on how it [generally] considers multi-stock events adjudicated on Nasdaq's own motion pursuant to Rule 11890(b).

Nasdaq generally considers a transaction to be clearly erroneous when the print is substantially inconsistent with the market price *that existed* at the time of execution *of the first share of one or a series of orders that resulted in disputed transactions. Nasdaq would not consider a trade clearly erroneous, and therefore would not break or modify it, if it was priced within a range of the preceding market price, as described in detail below.* In making such a determination, Nasdaq takes into account the circumstances at the time of the transaction, the maintenance of a fair and orderly market, and the protection of investors and the public interest. Participants in Nasdaq are responsible for ensuring that the appropriate price and type of order are entered into Nasdaq's systems. Simple assertion by a firm that it made a mistake in entering an order or a quote, or that it failed to pay attention or to update a quote, may not be sufficient to establish that a transaction was clearly erroneous.

Nasdaq may on its own motion review transactions in any security in the event of:

- A disruption or malfunction in the use or operation of any quotation, execution, communication, or trade reporting system owned or operated by Nasdaq and approved by the SEC; or
- Extraordinary market conditions or other circumstances in which the

nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest.

Consequently, Rule 11890(b) is focused on systemic problems that involve large numbers of parties or trades, or market conditions where it would not be in the best interests of the market to proceed under the processes set forth in Rule 11890(a). Even in cases involving multiple securities, however, market participants should not assume that Rule 11890(b) will be available where, for example, they failed to file a complaint within the time periods specified in Rule 11890(a). The rule could be available, however, in cases where a trade not eligible for adjudication under Rule 11890(a) nevertheless could present systemic risks if permitted to stand. The determination of whether to adjudicate an event under Rule 11890(b) is made by Nasdaq in its sole discretion pursuant to the terms of the rule.

Numerical Factors for Review

Nasdaq primarily considers the execution prices of the trades in question in determining whether trades should be nullified in a multi-stock event pursuant to Rule 11890(b). [Generally all trades more than 10% away from the Reference Price would be clearly erroneous.] *The range away from a Reference Price beyond which trades may be broken is referred to as the Numerical Threshold, and is 10% (except in the circumstances described below). As a corollary to this policy, Nasdaq does not break trades that are at the Numerical Threshold or between the Reference Price and the Numerical Threshold.*

NASDAQ uses [different] Reference Prices based on time of the trade in order to establish an appropriate comparison point. These Reference Prices are detailed below. [In unusual circumstances, however, Nasdaq may use a different Reference Price.]

Time of Trade	Reference Price
All trades executed *during the Regular Session* after the *market* opening *process* [of trading during regular market hours and until the end of regular market hours]	*Inside Price* [For Nasdaq-listed securities, the best bid (best offer) (''BBO'') in Nasdaq at the time of execution of first share of the disputed order] [For Non-Nasdaq-listed securities, the national BBO at the time of execution of first share of the disputed order]
All securities for trades executed: ■ *outside of the Regular Session* ■ after 4:00 p.m., Eastern Time (ET) ■ before 9:30 a.m., ET] ■ during the market opening process [for regular market hours]	The closing price of the security for *the Regular Session* [regular market hours] on the security's [primary market]*Primary Market. If the closing price does not appear substantially related to the market, Nasdaq may consider other References Prices, including the prices of other trades in the trading session or the Inside Price.*

In unusual circumstances, however, Nasdaq may use a different Reference Price in determining which trades to break. For example, in the case of several large orders that execute at multiple prices, a Reference Price based on a weighted average of the best bid (best offer) (''BBO'') at relevant times may be used rather than a Reference Price based solely on the Inside Price.

It may also be necessary to use a higher Numerical Threshold if, after market participants have been alerted to the existence of erroneous activity, the price of the security returns toward its prior trading range but continues to trade beyond the price at which trades would normally be broken. Nasdaq also may use different Numerical Thresholds in events that involve other markets in order to coordinate a Numerical Threshold that is consistent across markets.

Finally, Nasdaq could break or adjust all trades in a security if a pervasive mistake resulted in trading that should not have occurred. For example, trades in a security that was incorrectly authorized for trading prior to the date of its actual initial public offering would all be broken. Similarly, if Nasdaq systems executed orders in the Nasdaq opening cross or closing cross at a price that was inconsistent with the rules governing the operation of the crosses, either due to a Nasdaq system error or because an underlying erroneous order resulted in an erroneous opening or closing price, Nasdaq may break or adjust all of the affected trades.

In occasional circumstances, Nasdaq may consider additional factors in determining whether the transactions are clearly erroneous *(provided the applicable Numerical Threshold is exceeded)*. These include:

■ Material news released for individual securities

■ Suspicious trading activity

Nasdaq may also apply the guidance set forth in IM 11890–5 to some events involving a single security, such as some situations where trading activity occurs in multiple market centers and Nasdaq is acting in consultation with other markets.

Suspicious Trading Activity

As reflected in Rule 11890(a)(1)(A), Nasdaq may determine that a transaction is clearly erroneous if the person seeking review has represented that it resulted from an order submitted by a person that was not authorized to submit that order into Nasdaq or from an account used for the purpose of effecting a manipulation of the market for the security. Nasdaq may adjudicate such transactions under Rule 11890(b) if their effect on the market is such that nullification or modification of a large number of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest.

While an assertion of suspicious trading activity may provide the basis for reviewing transactions, it does not provide a basis for altering the application of the factors used in determining whether to nullify or modify trades. Thus, Nasdaq would apply the Numerical Thresholds described above in determining which trades to break. For example, if the best offer in a security during the Regular Session was $20 prior to the execution of the first share of a series of unauthorized buy orders that executed at prices ranging from $20 to $30, the usual Numerical Threshold would be 10%, or $22.00, and trades above that price could be broken.

* * * * *

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

Application of Rule 11890 to Suspicious Trading Activity

Nasdaq is amending Rule 11890, which covers the breaking or adjusting of trades determined to be clearly erroneous, to clarify the scope of its application to unauthorized and/or manipulative trading activity that could disrupt fair and orderly markets. In recent months, financial regulators have become aware of market manipulation schemes in which criminals manipulate stock prices by illegally gaining access to legitimate accounts.[5] Accordingly, Nasdaq is proposing to amend the definition of ''clearly erroneous,'' which currently refers to an obvious error in any term of a transaction, to make it clear that unauthorized trading activity fits within the definition. However, Nasdaq believes that the rule should not be drafted in a manner that makes an artificial distinction between manipulative activity undertaken through ''hijacked'' accounts and similar manipulations effected through accounts where an individual is technically authorized to enter orders but may take other measures to conceal identity. In short, Nasdaq believes that the scope of Rule 11890 should be broad enough to allow an appropriate response to any form of unauthorized or manipulative trading activity, including ''cyber attacks'' on the infrastructure of the financial system by terrorist organizations or attempts to manipulate stock prices by illegally gaining access to legitimate accounts or opening new accounts using false information.[6]

The rule change further provides that although suspicious trading activity may provide a basis for determining a trade to be clearly erroneous, it would not provide a basis for altering the application of price-based numerical factors in determining whether to break particular trades. As described in SR–NASDAQ–2006–046,[7] Nasdaq primarily considers the execution price of a trade in determining whether it is clearly erroneous, and breaks trades that are more than a specified percentage away from a Reference Price that is indicative of prior market conditions. The range away from a Reference Price beyond which trades may be broken, expressed as a percentage or minimum deviation, is referred to as the Numerical Threshold.[8] Thus, Nasdaq would apply the numerical factors described in IM–11890–4 and IM–11890–5 in determining which trades to break.[9] For example, if the best offer in a security during a market's Regular Session [10] was $20 prior to the execution of the first share of a series of unauthorized buy orders that executed at prices ranging from $20 to $30, the usual Numerical Threshold would be 10%, or $22.00, and higher-priced trades could be broken. Similarly, the minimum price threshold required for adjudication under Rule 11890(a)(2)(D)(ii) would be applicable in the case of unauthorized or manipulative transactions being adjudicated under Rule 11890(a).

Nasdaq believes that it is important to allow transactions priced close to the inside market or other reference price to stand, even if the transactions directly resulted from a mistake, system error or account intrusion. This ensures that market participants have economic incentives to develop and maintain internal controls with a goal of preventing erroneous trading activity. It should also be noted that Nasdaq refers market participants for investigation by the NASD in its capacity as Nasdaq's regulatory services provider in all circumstances where a firm's erroneous trades raise questions as to the adequacy of its computer systems and internal controls. Nasdaq believes that enhanced controls by brokerage firms may play an important role in reducing the incidence of account intrusions, as well as system and human errors.[11]

Numerical Thresholds

The proposed rule change also amends IM–11890–4 and –5 to provide some additional guidance regarding the application of price-based factors under Rule 11890. The Reference Price generally used under Rule 11890 is the best bid/best offer (''BBO'') in Nasdaq, or the national BBO, for trading during the Regular Session, and the closing price on a stock's primary market for late and early trading. As described in SR–NASDAQ–2006–046,[12] however, Nasdaq may use a different Reference Price in unusual circumstances. Thus, in a case where material news about a security was released after market close for the security and a trade occurring after 4 p.m. and before 9:30 a.m. is at issue, Nasdaq may use a Reference Price derived from after-hours trading activity rather than the closing price of the security. Similarly, in the case of several large orders that execute at multiple prices, a Reference Price based on a weighted average of the BBO at relevant times may be used rather than a Reference Price based solely on the BBO immediately prior to the execution of the first share of the order. Nasdaq believes that it would enhance the clarity of the Interpretive Material to add these examples from the prior filing directly to the text. Nasdaq also proposes to amend the Interpretive Material to add examples of cases where Nasdaq may apply alternative Numerical Thresholds in determining which trades to break. For example, it may be necessary to use a higher Numerical Threshold if, after market participants have been alerted to the

[5] *See, e.g.*, SEC Litigation Release No. 20037 (March 12, 2007).

[6] Clay Wilson, Congressional Research Service, *Computer Attack and Cyber Terrorism: Vulnerabilities and Policy Issues for Congress* (April 1, 2005); Jeffrey Garten, *Markets' resilience to terror is no reason to relax,* Financial Times (September 11, 2006); Financial Services Sector Coordinating Council, *Protecting the U.S. Critical Financial Infrastructure: An Agenda for 2005* (2005).

[7] Securities Exchange Act Release No. 54854 (December 1, 2006), 71 FR 71208, 71211 (December 8, 2006) (SR–NASDAQ–2006–046).

[8] As a corollary to its policy, Nasdaq does not break trades that are at the Numerical Threshold or between the Reference Price and the Numerical Threshold.

[9] IM–11890–4 provides guidance on how Nasdaq considers: (1) all complaints filed by market participants under Rule 11890(a) and (2) most events involving a single security considered on Nasdaq's own motion pursuant to Rule 11890(b). IM–11890–5 provides guidance on the remaining events involving a single security considered on Nasdaq's own motion pursuant to Rule 11890(b), such as some situations where trading activity occurs in multiple market centers and Nasdaq is acting in consultation with other markets. IM–11890–5 also provides guidance on how Nasdaq considers multi-stock events adjudicated on Nasdaq's own motion pursuant to Rule 11890(b). Telephone conversation by and between John Yetter, Senior Associate General Counsel, Nasdaq, and David Hsu, Special Counsel, Division of Market Regulation, Commission, on June 20, 2007.

[10] The proposed rule change adds the defined term ''Regular Session'' to the rule, and defines it as ''the primary trading session for a particular security on its Primary Market, which is generally 9:30 a.m. through 4:00 or 4:15 p.m.

[11] Nasdaq maintains records of each clearly erroneous complaint that it receives. This file includes: the filer's written complaint as required by Rule 11890(a)(2), any further written correspondence or notes of oral communications made by the Nasdaq MarketWatch analyst, any relevant screen shots or other market information retained by the analysts, and a record of the decisions by the Nasdaq official and the Market Operations Review Committee, if the official's decision is appealed. In the event of an account intrusion, Nasdaq requires written confirmation from the filer that the erroneous trade resulted from an account intrusion unless provided in the filer's original written complaint. Nasdaq refers all clearly erroneous complaints that raise regulatory concerns, including all cases alleging account intrusion, to NASD on a timely basis and also provides NASD with information on all complaints on a monthly basis.

[12] *See supra* note 7.

existence of erroneous activity, the price of a security returns toward its prior trading range but continues to trade beyond the price at which trades would normally be broken. Nasdaq also may use different Numerical Thresholds in events that involve other markets in order to coordinate a break point that is consistent across markets. For example, if the bulk of trades in a stock not listed on Nasdaq occurred in the stock's primary market, Nasdaq would generally seek to reach a result consistent with the primary market.

Finally, the amended Interpretive Material provides that Nasdaq could break or modify all trades in a security if a pervasive mistake resulted in trading that should not have occurred. For example, trades in a security that was incorrectly authorized for trading prior to the date of its actual initial public offering would all be broken. Similarly, if Nasdaq systems executed orders in the Nasdaq opening cross or closing cross at a price that was inconsistent with the rules governing the operation of the crosses, either due to a Nasdaq system error or because an underlying erroneous order resulted in an erroneous opening or closing price, Nasdaq may break or adjust all of the affected trades.

Nasdaq is also amending the Numerical Thresholds under IM–11890–4 for trading outside the Regular Session, to establish wider ranges within which trades are permitted to stand. The change reflects the diminished depth of the market during after hours and pre-market trading sessions; market participants trading during these sessions must accept the fact that orders are more likely to exhaust liquidity available at the inside price than is the case during the Regular Session. Accordingly, Nasdaq believes that the Numerical Thresholds should be doubled during these times. For example, a trade at $40 per share could be broken if more than 10% away from the Reference Price during the Regular Session, but could not be broken during the pre-market or after hours sessions unless it was more than 20% away from the Reference Price.

Nasdaq is also amending the language of Rule 11890(a)(2)(B) to make it clear that persons seeking review of transactions must present a factual basis for believing that the trade is clearly erroneous. Nasdaq cannot, within the context of an adjudication that must be conducted within a short period of time, determine all of the factual circumstances associated with a particular trade or set of trades. Thus, for example, if a trader files for adjudication and states that he mistakenly entered an order for 400,000 shares rather than the intended order size of 4,000, Nasdaq cannot, on a real-time basis, determine whether this is accurate. Nevertheless, Nasdaq believes that it is generally incumbent on persons seeking review actually to allege a human or system error, rather than merely stating that the order was ''filled away'' or at ''a bad price.'' [13] Requiring the statement of a factual basis also allows NASD to evaluate, after the fact, whether a particular market participant is abusing the clearly erroneous process or employing poor internal controls. Individuals and firms found to have misled Nasdaq about the cause of the alleged error would be subject to disciplinary action for misleading a self-regulatory organization.

Other Changes

Nasdaq is amending the time limits for market participants to file for an adjudication under Rule 11890(a) in cases where the price of the transaction at issue is more than 50% away from the applicable inside price (or the closing price, for trading outside the Regular Session or before the primary market has posted its first two-sided quote), provided that the value of the transactions at issue is more than $10,000.[14] If these criteria are met, the transaction is defined as an ''Outlier Transaction,'' and the parties to the trade are given an extra hour to petition for review if the trade occurred during the Regular Session or during pre-market hours, or until 9:30 a.m. the next trading day if the trade occurred after hours. The reason for the change is to provide greater assurance that trades that are egregiously out of line with prevailing market prices are not permitted to stand, provided that the dollar value of the trades is significant.

Nasdaq is also making several minor procedural modifications to the rule. First, Nasdaq is amending the language of Rule 11890(a)(2)(E) to allow Nasdaq to notify the counterparty to a trade about an erroneous event by telephone or other means consistent with the communications provisions of Rule 11890(d). While Nasdaq currently intends to continue notifying counterparties by telephone, the proposed change would give Nasdaq the flexibility to incorporate more electronic communications in the future. Pursuant to Rule 11890(d), any change to the method of communication must be announced by Nasdaq in a Notice to Members or Head Trader Alert.

Second, Nasdaq is amending Rule 11890(b) to replace a statement that Nasdaq should, except in extraordinary circumstances, take action under the subsection within thirty (30) minutes of detection of an erroneous transaction, with a statement that Nasdaq should act as soon as possible. Time is always of the essence when determinations must be made under the rule, but as a practical matter, many events adjudicated under Rule 11890(b) involve coordination between multiple market centers, and the time required to gather and evaluate information needed to make a determination is often in excess of 30 minutes. Accordingly, Nasdaq is amending the rule to provide that a determination must be made as soon as possible, except in extraordinary circumstances, in which case the outside time limit for a determination under the paragraph (b) will be 9:30 a.m. the next trading day (rather than 3 p.m., as currently provided).

Third, Nasdaq is amending Rule 11890 and the Interpretative Material in several places to replace the word ''officer'' with the word ''official.'' The intent of this change is to allow adjudications under Rule 11890(a) to be made by any duly designated Nasdaq employee, rather than limiting that authority to persons that are officers of Nasdaq within the meaning of its limited liability company agreement (*e.g.*, persons with the title of Vice President or President). The change will broaden the scope of persons permitted to adjudicate claims under the Rule, thereby allowing more efficient adjudications. All persons designated under the Rule will have appropriate background in market structure and the requirements of the Rule; designated persons are likely to be employees of Nasdaq's MarketWatch regulatory unit. Nasdaq is not, however, modifying Rule

[13] Nasdaq notes, however, that several circumstances exist in which price itself may provide a conclusive basis for determining that an error occurred. For example, if a market participant entered an order in a non-Nasdaq security for execution after 9:30 a.m., but the primary market delayed its opening in the security until a later time, an execution may occur at a price substantially unrelated to the primary market's opening price of the security. Similarly, an execution of an order for an exchange-traded fund at a price that is substantially out-of-line with the intraday indicative value for the fund may provide *prima facie* evidence of an error. There have also been circumstances in which an employee of a member firm notices an execution at a price a substantial percentage (*i.e.*, well in excess of 10%) away from the best bid/best offer, is unable to contact the responsible trader to obtain an explanation, and files for a nullification of the trade based solely on its price.

[14] Measured by multiplying the number of shares at issue in the trades by the difference between the execution price and price with which the execution price is compared under the rule.

11890(b), which requires decisions to break or modify trades on Nasdaq's own motion to be made by senior officers only. Consistent with current practice, all adjudications under 11890(a) and (b) will continue to be made on a ''no-names basis'' (*i.e.*, the adjudicator does not know the identities of the market participants that will be affected by the decision).

Finally, Nasdaq is amending the rule to add a consolidated paragraph of definitions of terms used in the rule and to delete obsolete references to transactions entered into by a member of a national securities exchange with unlisted trading privileges in Nasdaq securities. Although Nasdaq's former SuperMontage system allowed other exchanges to enter orders directly, the current Nasdaq Market Center does not retain this functionality. Rather, other exchanges and their members can access Nasdaq through broker-dealers that are members of Nasdaq, including broker-dealers owned by exchanges.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[15] in general, and with Section 6(b)(5) of the Act,[16] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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.

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

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 Nasdaq 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–NASDAQ–2007–001 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–2007–001. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2007–001 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

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[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55932; File No. SR–NYSEArca–2007–54]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Position and Exercise Limits for Options on the KBW Bank Index

June 20, 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 June 13, 2007, NYSE Arca, Inc. (''NYSE Arca'' 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. The Exchange has designated the proposed rule change as ''non-controversial'' under Section 19(b)(3)(A)(iii)[3] of the Act 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

NYSE Arca proposes to amend NYSE Arca Rule 5.16 in order to increase the position and exercise limits for options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

on the KBW Bank Index. The text of the proposed rule change is available at NYSE Arca, at the Commission's Public Reference Room, and on the Exchange's Web site (*http://www.nyse.com*).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE Arca has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently listed for trading options on the KBW Bank Index (''BKX'') pursuant to the generic listing standards of NYSE Arca Rule 5.13. Under NYSE Arca Rule 5.16(a), a narrow-based index option such as BKX cannot have position and exercise limits that exceed 31,500 contracts. The Exchange notes that the Philadelphia Stock Exchange, Inc. (''Phlx'') and the International Securities Exchange, LLC (''ISE'') currently list options on BKX and expanded their position and exercise limits for options on BKX to 44,000 contracts.[5] Accordingly, the Exchange proposes to amend NYSE Arca Rule 5.16 to increase the position and exercise limits for options on BKX to 44,000 contracts also. The Exchange believes it is important for a product traded at multiple exchanges to have uniform position and exercise limits in order to eliminate any confusion among investors and other market participants.

2. Statutory Basis

The Exchange believes the basis under the Act for this proposed rule change is found in Section 6(b)(5),[6] in that the adoption of uniform position and exercise limits for BKX will serve to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would 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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Commission believes that waiving the five-day prefiling requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to immediately implement this proposal and make NYSE Arca's position and exercise limits for options on BKX consistent with the Phlx's and ISE's position and exercise limits for such options.[11] Further, the Commission further notes that the increased position and exercise limits for Phlx were previously noticed for comment and no comments were received. The Commission designates the proposal to become effective and operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the 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–NYSEArca–2007–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2007–54. 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, 100 F Street, NE., Washington,

[5] *See* Securities Exchange Act Release Nos. 49312 (February 24, 2004), 69 FR 9672 (March 1, 2004) (SR–Phlx–2004–13) and 55279 (February 12, 2007), 72 FR 7784 (February 20, 2007) (SR–ISE–2007–02).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] *Id.*

[11] *See supra* note 5.

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2007–54 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12389 Filed 6–26–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55906; File No. SR–NYSEArca–2007–46]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Firm Facilitation, Royalty, and Booth Fees

June 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 May 31, 2007, NYSE Arca, Inc. (''NYSE Arca'' 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. NYSE Arca has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange 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

NYSE Arca proposes to amend its Schedule of Fees and Charges for Exchange Services (''Schedule'') by making a technical change to the Firm Facilitation fee, eliminating one Royalty Fee, adding another, and capping the fees it charges to OTP Firms for booths on the options trading floor. The text of the proposed rule change is available at the Exchange, its Web Site (*http://www.nyse.com/regulation*), and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the existing Schedule by: (1) Making a technical change to the Firm Facilitation Fee; (2) eliminating one Royalty Fee; (3) adding one new Royalty Fee; and (4) establishing a monthly cap on Booth Fees. A brief description of each proposed changes is provided below.

Firm Facilitation Fees. The Firm Facilitation rate applies to transactions involving a proprietary trading account of an OTP Firm[5] that has a customer of that OTP Firm on the contra side of the transaction. This practice is generally referred to as ''facilitating'' an order. Facilitation Orders on NYSE Arca are manually traded via open outcry and are not presently eligible for electronic execution. Open outcry trades are not subject to the Post/Take pricing model that NYSE Arca utilizes for issues that trade as part of the Penny Pilot. Accordingly, the Schedule now reads ''N/A'' for Firm Facilitation fees under both ''Post'' and ''Take'' Liquidity. Once the Facilitation Orders are fully automated, the Exchange will file with the Commission, a proposal for a new Post/Take rate for this order type.

Royalty Fees. The Exchange proposes to eliminate Royalty Fees for options traded on the NASDAQ Fidelity Composite Index ETF (ONEQ). The Exchange will no longer collect the $0.12 per contract fee on any trades in ONEQ. By eliminating these fees, the Exchange hopes to attract additional order flow and encourage more trading by market participants.

The Exchange plans to commence trading of options on the KBW Bank Index (BKX). The Exchange has entered into a licensing agreement with Keefe, Bruyette & Woods Inc., the firm that created and maintains the fund. As a part of this agreement, NYSE Arca will pay a fee to Keefe, Bruyette & Woods on every contract traded on the Exchange. Effective with this filing, the Exchange will assess a $0.10 Royalty Fee, on a per contract basis, for Firm, Broker/Dealer, and Market Maker transactions in options on the KBW Bank Index. For electronic executions in issues included in the Penny Pilot, Royalty Fees will be passed through to the trading participant on the ''Take'' side of the transaction.[6]

Booth Fees. OTP Firms apply for, and receive permission to use, booths on the options trading floor. The Exchange currently charges a $350 per month fee for each booth that an OTP Firm uses, without any monthly cap. The Exchange now proposes capping this fee at $3500 per month. Going forward, firms will pay a maximum monthly booth fee of $3500 regardless of how many booths they are authorized to use.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[7] in general, and Section 6(b)(4),[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

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.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* NYSE Arca Options Rule 1.1(r) (defining ''OTP Firm'').

[6] *See* telephone conversation between Andrew Stevens, Assistant General Counsel, Amex, and Christopher Chow, Special Counsel, Commission, on June 13, 2007.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act [9] and Rule 19b–4(f)(2) [10] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal is effective upon filing with the Commission. 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–NYSEArca–2007–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2007–46. 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–NYSEArca–2007–46 and should be submitted on or before July 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12391 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55939; File No. SR–OCC–2007–06]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Credit Default Basket Options

June 21, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 20, 2007, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') and on June 16, 2007, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purposed rule change would permit OCC to clear and settle credit default basket options (''CDBOs'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit OCC to clear and settle CDBOs, which are options related to the creditworthiness of an issuer or guarantor (''reference entity'') of one or more specified debt securities (''reference obligations''). CDBOs are proposed to be traded by the Chicago Board Options Exchange (''CBOE'').[3] CDBOs are binary options that pay a fixed amount to the holder of the option upon the occurrence of a ''credit event'' affecting the reference obligations.[4] Characteristics of CDBOs are described below, followed by an explanation of the specific rule changes being proposed in order that OCC may clear and settle them.

Description of Credit Default Basket Options

CDBOs are structured as binary options with an automatic exercise feature. They are very similar to Credit Default Options (''CDOs'') that were recently approved for trading by CBOE and clearing by OCC except that CDBOs are based upon multiple reference entities instead of a single reference entity.[5] A CDBO will be automatically exercised and an exercise settlement amount will be payable if a ''credit event'' occurs with respect to any one of the reference entities at any time prior to the last day of trading. As in the case

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Securities Exchange Act Release No. 55938 (June 21, 2007) (notice of filing of proposed rule change) [File No. SR–CBOE–2007–26].

[4] ''Binary'' options (also sometimes referred to as ''digital'' options) are ''all-or-nothing'' options that pay a fixed amount if automatically exercised and otherwise pay nothing.

[5] Securities Exchange Act Release No. 55871 (June 6, 2007), 72 FR 32372 (June 12, 2007) [File No. SR–CBOE–2006–84]. See also Securities Exchange Act Release No. 55872 (June 6, 2007), 72 FR 32693 (June 13, 2007) [File No. SR–OCC–2007–01].

of a CDO, a ''credit event'' is generally defined as any failure to pay on any of the reference obligations or any other occurrence that would constitute an ''event of default'' or ''restructuring'' under the terms of any of the reference obligations of a particular reference entity and that the listing exchange has determined would be a credit event for purposes of the CDBO.

CDBOs may be thought of as a bundle of CDOs in that there is a fixed exercise settlement amount that is determined for each of the reference entities included in the basket of reference entities underlying the CDBO. The exercise settlement amount may be the same for all of the reference entities or it may be different for each one.

CDBOs come in two types: Multiple payout CDBOs and single payout CDBOs. A multiple payout CDBO is automatically exercised each time there is a credit event affecting any one of the reference entities. Once the CDBO has been exercised with respect to that reference entity such reference entity is removed from the basket. In the unlikely event that a CDBO is exercised with respect to all of the reference entities in the basket, the expiration of the option would be accelerated. A single payout CDBO, on the other hand, is automatically exercised only the first time that a credit event is confirmed with respect to any one of the reference entities. A single payout CDBO cannot be exercised again with respect to any other reference entity and its expiration date will be accelerated. With either a multiple payout CDBO or a single payout CDBO, the exercise settlement amount is the exercise settlement amount that was assigned by the listing exchange to the reference entity affected by the credit event.

By-Law and Rule Amendments Applicable to CDOs

In order to accommodate the clearing and settlement of CDBOs, OCC proposes to amend the By-Law Article and Rule Chapter that were adopted for CDOs.

1. Terminology—Article I, Section 1 and Article XIV, Section 1 of the By-Laws

The definition of ''option contract'' in Article I of the By-Laws is amended to include CDBOs. ''Adjustment event'' and ''credit event'' are defined in Article XIV by reference to the rules of the listing exchange. The terms ''credit event confirmation'' and ''credit event confirmation deadline'' are used, respectively, to refer to the notice that must be provided by the listing exchange or other reporting authority to OCC that a credit event has occurred (and that a CDBO will therefore automatically be exercised) and to the deadline for receipt of such notice if it is to be treated as having been received on the business day on which it is submitted. Credit event confirmations received after the deadline on the expiration date but before the expiration time will be given effect but may result in delayed exercise settlement.

OCC is also amending the definition of the term ''exercise settlement amount'' in Article XIV for purposes of CDBOs. The exercise settlement amount of a CDBO is the amount specified by the exchange on which the option is traded that will be paid in settlement when a CDBO is automatically exercised as a result of a credit event affecting a particular reference entity. The exercise settlement amount for each reference entity will be determined by the exchange at the time of listing when the exchange fixes the other variable terms for the options of a particular class or series.

OCC is replacing the definitions of ''variable terms,'' ''premium,'' and ''multiplier'' in Article I of the By-Laws with revised definitions in Article XIV, Section 1, that are applicable to CDBOs. The term ''class'' is also redefined in Article XIV, Section 1. To be within the same class, CDBOs must have the same reporting authority, which OCC anticipates will ordinarily be the listing exchange. This is necessary because of the degree of discretion that the reporting authority will have in determining whether a credit event has occurred.

Other terms that were created or amended for CDOs will be modified to apply to CDBOs as well.

2. Terms of Cleared Contracts—Article VI, Section 10(e)

A new paragraph (e) is added to Article VI, Section 10 so that an exchange is required to designate the exercise settlement amount and expiration date for a series of CDBOs at the time the series is opened for trading. Section 10(e) also reminds the reader that CDBOs are subject to adjustment under Article XIV.

3. Rights and Obligations—Article XIV, Section 2

Article XIV, Section 2A defines the general rights and obligations of holders and writers of CDBOs. As noted above, the holder of a CDBO that is automatically exercised has the right to receive the fixed exercise settlement amount for the particular reference entity affected by a credit event, and the assigned writer has the obligation to pay that amount.

4. Adjustments of Credit Default Basket Options—Article XIV, Section 3; Determination of Occurrence of Credit Event—Article XIV, Section 4

Article XIV, Section 3 provides for adjustment of CDBOs in accordance with the rules of the listing exchange. For example, CBOE's proposed rules provide for adjustment of CDBOs in the case of certain corporate events affecting the reference obligations, and OCC proposes simply to defer to those rules and to the determinations of CBOE pursuant to those rules. Accordingly, as in the case of CDOs, OCC will have no responsibility for adjustment determinations with respect to CDBOs.

Similarly, Section 4 provides that the listing exchange for a class of CDBOs will have responsibility for determining the occurrence of a credit event that will result in automatic exercise of the options of that class with respect to a particular reference entity. The listing exchange has the obligation to provide a credit event confirmation to OCC in order to trigger the automatic exercise.

5. Exercise and Settlement—Chapter XV of the Rules and Rule 801

CDBOs would not be subject to the exercise-by-exception procedures applicable to most other options under OCC's Rules but would instead be automatically exercised prior to or at expiration if the specified criterion for exercise is met. The procedures for the automatic exercise of CDBOs, as well as their assignment and settlement (including during periods when a clearing member is suspended), are set forth in Rules 1501 through 1505 of new Chapter XV and in revised Rule 801(b).

6. Special Margin Requirements—Rule 601; Deposits in Lieu of Margin—Rule 1506

As in the case of CDOs, OCC will not initially margin CDBOs through its ''STANS'' system in the same way that other options are margined. Because of the fixed payout feature of CDOs and CDBOs, further systems development is needed to accommodate these options in STANS on a portfolio basis. Until such development is completed, elements of STANS will be used to determine the expected liquidating value of each class of CDBOs and CDOs by extracting certain information regarding the default probability from the listed equity options on the common stock of the reference entity and the market price of the CDBOs and CDOs. Expected liquidating values can then be derived from simulated price movements in the stock over a range of values. Thus, general principles of

STANS will be applied, but each class of CDBOs and CDOs will be treated as a separate portfolio and will not be included within the entire portfolio of a particular account. An exception to this will be in the case where a firm has a net long position in CDBO or CDO contracts that are not required to be segregated and the risk computed under this methodology is less than 100% of the premium value of the net long position, the excess long value will be used to cover requirements associated with other cleared contracts. This margin methodology will result in a more conservative risk estimate than if the contracts were fully integrated in STANS since offsets in the risk calculation between these products and others will not be recognized except to the extent of any excess long value. Ultimately, CDBOs will be incorporated into the STANS system and will be valued and margined on a risk basis.

OCC does not propose to accept escrow deposits in lieu of clearing margin for CDBOs. Therefore, Rule 1506 states that Rule 610, which otherwise would permit such deposits, does not apply to CDBOs.

7. Acceleration of Expiration Date—Rule 1507

This provision would accelerate the expiration date of a single payout CDBO when the option is deemed to have been automatically exercised on any day prior to the expiration date and to accelerate the expiration date of a multiple payout CDBO when the option is deemed to have been automatically exercised with respect to every reference entity underlying such option prior to the expiration date.

The proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Act, as amended, because they are designed to promote the prompt and accurate clearance and settlement of transactions in, including exercises of, credit default basket options, to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and in general to protect investors and the public interest. They accomplish these purposes by applying substantially the same rules and procedures to these transactions as OCC applies to similar transactions in other cash-settled options except to the extent that special rules and procedures are required in order to accommodate unique features of CDBOs. Other than as described in this Item II, the proposed rule change is not inconsistent with the existing rules of OCC, including rules proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OCC–2007–06 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–OCC–2007–06. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/sr_occ_07_06.pdf*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2007–06 and should be submitted on or before July 12, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12425 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden

estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed, faxed or e-mailed to the individuals at the addresses and fax numbers listed below:

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov*.

(SSA)

Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov.*

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

Missing and Discrepant Wage Reports Letter and Questionnaire—26 CFR 31.6051–2–0960–0432. Each year employers report the wage amounts they paid their employees to the IRS for tax purposes, and separately to SSA for retirement and disability coverage purposes. These reported amounts should equal each other; however, each year some of the employer wage reports that SSA receives are less than the wage amounts reported to the IRS. SSA attempts to ensure that employees receive full credit for the wages that they have earned through the use of the forms SSA–L93–SM; SSA–L94–SM; SSA–95–SM and SSA–97–SM. Respondents are employers who reported less wage amounts to SSA than they reported to the IRS.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 360,000.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 180,000 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Certificate of Responsibility for Welfare and Care of Child Not in Applicant's Custody—20 CFR 404.330, 404.339–341 and 404.348–404.349–0960–0019.* SSA uses the information to determine if a non-custodial parent who is filing for Spouse's or Mother's and Father's benefits based on having a child in care meets the in-care requirements. Respondents are applicants for Spouse and/or Mother's and Father's benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 14,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 2,333 hours.

2. *Request for Waiver of Overpayment Recovery or Change in Repayment Notice—20 CFR 404.502–.513, 404.515 and 20 CFR 416.550–.570, 416.572—0960–0037.* The SSA–632–BK is used by a beneficiary/claimant to request a waiver of recovery of an overpayment by explaining why they feel they are without fault in causing the overpayment and to provide financial circumstances so that SSA can determine whether recovery would cause financial hardship. It is also used to request a different rate of recovery. In those cases the financial information must be provided for SSA to determine how much the overpaid person can afford to repay each month. Respondents are overpaid beneficiaries or claimants who are requesting a waiver of recovery for overpayment or a lesser rate of withholding.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 500,000.

Estimated Annual Burden: 875,000 hours.

Reason for completing form	Number of respondents	Frequency of response	Average burden per response	Total annual burden
Request Waiver	400,000	1	2 hours	800,000
Request Change	100,000	1	45 minutes	75,000
Totals	500,000			875,000

3. *Supplemental Statement Regarding Farming Activities of Person Living Outside the U.S.A.—0960–0103.* Form SSA–7163A is used whenever a beneficiary or claimant reports work on a farm outside the United States (U.S.). It is designed to obtain sufficient information to determine whether or not foreign work deductions are applicable to the claimant's benefits. Respondents are beneficiaries or claimants for Social Security benefits who are engaged in farming activity outside the U.S.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 1,000.

Frequency of Response: 1.

Average Burden per Response: 1 hour.

Estimated Annual Burden: 1,000 hours.

4. *Disability Report-Appeal—20 CFR 404.1512, 416.912, 404.916(c), 416.1416(c), 405 Subpart C, 422.140—0960–0144.* The SSA–3441–BK is used to secure updated medical and other information since the claimant's last disability determination from claimants who are appealing an unfavorable disability determination. This information may be used for reconsideration or request for federal reviewing official review of initial disability determinations and continuing disability reviews as well as a request for a hearing. This information assists the State Disability Determination Services, federal reviewing officials, and administrative law judges in preparing for appeals and hearings and in issuing a decision. Respondents are individuals who appeal denial of Social Security disability income and Supplemental Security Income (SSI) benefits, cessation of benefits, or who are requesting a hearing.

Type of Request: Revision of an OMB-approved information collection.

Estimated Annual Burden: 1,296,190 hours.

Collection method	Number of respondents	Frequency of response	Average burden per response (min)	Estimated annual burden hours
SSA–3441 (Paper Form)	21,282	1	45	15,962
Electronic Disability Collect System (EDCS)	1,284,019	1	45	963,014
I3441 (Internet Form)	158,607	1	120	317,214
Totals	1,463,908			1,296,190

5. *Request for Hearing by Administrative Law Judge—20 CFR 404.929, 404.933, 416.1429, 404.1433, 405.722, 418.1350—0960–0269.* The information collected on Form HA–501–U5 is used by SSA to document and initiate the Administrative Law Judge (ALJ) hearing process for determining eligibility or entitlement to Social Security benefits (Title II), Supplemental Security Income payments (Title XVI), Special Veterans Benefits (Title VIII), Medicare (Title XVIII), and of initial determinations regarding Medicare Part B income-related premium subsidy reductions. The methods for filing a request for an ALJ hearing are being expanded to include the internet. If an individual receives a notice of denial of his/her disability claim and the notice provides rights to an ALJ hearing, he/she will have the option of filing for the ALJ hearing over the internet. The individual will complete the appropriate appeal screens and submit the appeal to SSA for processing. The respondents are individuals filing for an ALJ hearing.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 669,469.

Estimated Annual Burden: 178,525 hours.

Collection method	Number of respondents	Frequency of response	Estimated completion time (min)	Total burden hours
Paper & Modernized Claims System	334,735	1	10	55,789
i501	334,734	1	22	122,736
Totals	669,469			178,525

6. *Request for Earnings and Benefit Estimate Statement—20 CFR 404.810–0960–0466.* SSA uses the information the requestor provides on Form SSA–7004 to identify his or her Social Security earnings record, extract posted earnings information, calculate potential benefit estimates, produce the resulting Social Security Statement and mail it to the requestor. Respondents are Social Security number holders requesting information about their Social Security earnings records and estimates of their potential benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 545,000.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Average Burden: 45,417 hours.

7. *Employer Verification of Earnings After Death—20 CFR 404.821 and 404.822–0960–0472.* The information collected on Form SSAL4112 is used by SSA to determine whether wages reported by an employer are correct and should be credited to the employee's Social Security number when SSA records indicate that the wage earner is deceased. The respondents are employers who report wages for a deceased employee.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 8,333 hours.

8. *Appointment of Representative—20 CFR 404.1707, 404.1720, 404.1725, 410.684 and 416.1507–0960–0527.* A person claiming a right or benefit under the Social Security Act must notify SSA in writing if he or she appoints an individual to represent him or her in dealing with SSA. The information collected by SSA on form SSA–1696–U4 is used to verify the applicant's appointment of a representative. It allows SSA to inform the representative of items which affect the applicant's claim, and it also allows the claimant to give permission to their appointed representative to designate a person to copy claims files. Respondents are applicants who notify SSA that they have appointed a person to represent them in their dealings with SSA when claiming a right to benefits and representatives of claimants for Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 551,520.

Frequency of Response: 1.

Average Burden per Response: 10 minutes.

Estimated Annual Burden: 91,920 hours.

9. *Request for Reconsideration—20 CFR 404.907–404.921, 416.1407–416.1421, 408.1009–0960–0622.* The information collected on Form SSA–561–U2 is used by SSA to document and initiate the reconsideration process for determining eligibility or entitlement to Social Security benefits (Title II), Supplemental Security Income payments (Title XVI), Special Veterans Benefits (Title VIII), Medicare (Title XVIII), and of initial determinations regarding Medicare Part B income-related premium subsidy reductions. The methods for filing a request for reconsideration are being expanded to include the internet. If an individual receives a notice of denial of his/her disability claim and the notice provides the right to reconsideration, he/she will have the option of filing for the reconsideration over the internet. The

individual will complete the appropriate appeal screens and submit the appeal to SSA for processing. The respondents are individuals filing for reconsideration.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 1,461,700.

Estimated Annual Burden: 341,064 hours.

Collection method	Number of respondents	Frequency of response	Estimated completion time (min)	Total burden hours
Paper & Modernized Claims System	730,850	1	8	97,447
i561	730,850	1	20	243,617
Totals	1,461,700			341,064

10. *Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3989—20 CFR Subpart B—416.204–0960–NEW.* Forms SSA–3988 and SSA–3989 will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory nonmedical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988 and SSA–3989 are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The respondents are recipients of SSI payments or their representatives.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 60,000.

Estimated Annual Burden: 26,000 hours.

Collection instrument	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden (hours)
SSA–3988	30,000	1	26	13,000
SSA–3989	30,000	1	26	13,000
Totals	60,000			26,000

11. *Request for Program Consultation—20 CFR 404.1601–1661–0960 New.*

The Disability Determination Services (DDS) offices are staffed by State employees who perform disability determinations for applicants for Social Security disability benefits under Title II and Title XVI of the Social Security Act. SSA's federal regional quality assurance office has the authority to review DDS determinations, to assess errors, and to return cases for corrective action by the DDS.

The information collected on the Request for Program Consultation (RPC) will be used by the DDS's that request a review of the regional quality assurance evaluations. The DDS's use the RPC to present their rationale that supports their determinations. The information collected includes a short rationale and policy citations supporting their rebuttal. The RPC team will use the information to reassess their initial determination. The respondents are DDS's who request a review of the regional quality assurance determination.

Type of Request: Request for a new information collection.

Number of Respondents: 4,500.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 2,250 hours.*

*SSA inadvertently cited an incorrect burden hour in the first FRN dated April 23, 2007 and the second FRN dated June 13, 2007. This notice serves as a correction.

Dated: June 21, 2007.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E7–12357 Filed 6–26–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 5851]

30-Day Notice of Proposed Information Collection: DS–2031, Shrimp Exporter's/Importer's Declaration, OMB Control Number 1405–0095

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Shrimp Exporter's/Importer's Declaration.
- *OMB Control Number:* 1405–0095.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Oceans and International Environmental and Scientific Affairs, Office of Marine Conservation (OES/OMC).
- *Form Number:* DS–2031.
- *Respondents:* Business or other for-profit.
- *Estimated Number of Respondents:* 3,000.
- *Estimated Number of Responses:* 10,000.
- *Average Hours per Response:* 10 min.
- *Total Estimated Burden:* 1,666.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Mandatory.

DATES: Submit comments to the Office of Management and Budget (OMB) up to July 27, 2007.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at

202–395–4718. You may submit comments by any of the following methods:

- *E-mail: kastrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Clayton Stanger, Office of Marine Conservation, 2201 C Street, NW., Room 2758, Washington, DC who may be reached on 202–647–2335 or *StangerCM@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The Form DS–203 is necessary to document imports of shrimp pursuant to the State Department's implementation of Section 609 of Public Law 101–162, which prohibits the entry into the United States of shrimp harvested in ways which are harmful to sea turtles. Respondents are shrimp exporters and government officials in countries which export shrimp to the United States. The DS 2031 Form is to be retained by the importer for a period of three years subsequent to entry, and during that time is to be made available to U.S. Customs and Border Protection or the Department of State upon request.

Methodology: The DS–2031 form is completed by the exporter, the importer, and under certain conditions a government official of the exporting country. The DS–2031 Form accompanies shipment of shrimp and shrimp products to the United States and is to be made available to U.S. Customs and Border Protection at the time of entry.

Dated: May 10, 2007.

David A. Balton,

Deputy Assistant Secretary for Oceans and Fisheries, Department of State.

[FR Doc. E7–12434 Filed 6–26–07; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 5850]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Lucy's Legacy: The Hidden Treasures of Ethiopia''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875), I hereby determine that the objects to be included in the exhibition, ''Lucy's Legacy: The Hidden Treasures of Ethiopia,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Houston Museum of Natural Science, Houston, Texas, from on or about August 31, 2007, to on or about April 20, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, such as a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U. S. Department of State, SA–44, Room 700, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 20, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–12436 Filed 6–26–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5849]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Yuungnaqpiallerput (The Way We Genuinely Live): Masterworks of Yup'ik Science and Survival''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Yuungnaqpiallerput (The Way We Genuinely Live): Masterworks of Yup'ik Science and Survival'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Yupiit Piciryarait Museum and Cultural Center, Bethel, Alaska, from on or about September 8, 2007, until on or about November 25, 2007, the Anchorage Museum at Rasmuson Center, Anchorage, Alaska, from on or about February 3, 2008, until on or about October 31, 2008, and the Alaska State Museum, Juneau, Alaska, from on or about May 1, 2009, until on or about October 1, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 15, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–12438 Filed 6–26–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Release of property acquired as Federal Government Surplus at Waycross—Ware County Airport; Waycross, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47107(h)(2), notice is being given that the FAA is considering a request from the County of Ware to waive the requirement that approximately 0.102—acres of airport property, located at the Waycross—Ware County Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before July 27, 2007.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: John Marshall, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jimmy Brown, Airport Manager for Waycross—Ware County Airport at the following address: 3395 Harris Rd, Suite 300, Waycross GA, 31503 (912) 287–4394.

FOR FURTHER INFORMATION CONTACT: John Marshall, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747 (404) 305–7153. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing an application by the County of Ware to release approximately 0.102 acres of airport property at the Waycross—Ware County Airport. The property consists of one parcel located on the East side of the airport adjoining the West side of the Ware State Prison property. The exact location of the property is described by the metes and bounds which follow at the end of this section. The proposed use of the property is for parking at the Ware State Prison training facility. The property was acquired from the Federal Government as surplus property. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the proposed use of this property is compatible with airport operations.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the application, notice and other documents germane to the request in person at the Ware County government officers.

Metes and Bounds: Beginning at the intersection of the centerlines of Highway US 1—Business (aka Alma Highway) and of Airport Road; run thence, South 41 degrees-31 minutes-32 seconds West, for a distance of 2339.50 feet to the point of BEGINNING; run thence, South 03 degrees-15 minutes-27 seconds East, for a distance of 133.67 feet; run thence, North 47 degrees-03 minutes-36 seconds West, for a distance of 96.45 feet; run thence North 42 degrees-55 minutes-46 seconds East, for a distance of 92.52 feet to the point of BEGINNING, having an area of 4,461.25 square feet, 0.102 acres.

Issued in Atlanta, Georgia on June 7, 2006.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 07–3131 6–26–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–28537]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 27, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2007–28537 by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, 20590.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Gillmann, 202–366–0160, Office of Highway Policy Information, Office of Policy, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, 20590. Office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Title:* Heavy Vehicle Travel Information System (HVTIS).

OMB Control Number: 2125–0587 (Expiration Date: November 30, 2007).

Background: Title 49, United States Code, Section 301, authorizes the DOT to collect statistical information relevant to domestic transportation. The FHWA is developing the HVTIS to house data that will enable analysis of the amount and nature of truck travel at the national and regional levels. The information will be used by the FHWA and other DOT agencies to evaluate changes in truck travel in order to assess impacts on highway safety; the role of travel in economic productivity; impacts of changes in truck travel on infrastructure condition; and maintenance of our Nation's mobility while protecting the human and natural environment. The increasing dependence on truck transport requires that data be available to better assess its overall contribution to the Nation's well-being. In conducting the data collection, the FHWA will be requesting that State Departments of Transportation (SDOT) continue to provide periodic reporting of traffic volume, vehicle classification, and vehicle weight data which they collect as part of their existing traffic monitoring programs, including other sources such as local governments and traffic operations. States and local governments collect traffic volume and vehicle classification data continuously and vehicle weight data periodically

throughout the year using weigh-in-motion devices. The data should be representative of all public roads within State boundaries. The data will allow transportation professionals at the Federal, State, and metropolitan levels to make informed decisions about policies and plans.

Respondents: 52 SDOTs, including the District of Columbia and Puerto Rico.

Frequency: It is proposed that total volume and continuous vehicle classification data be reported on a monthly basis to assure timely information that can be compared to monthly reports of economic activity. Based on data collection practices commonly used by the SDOTs, it is proposed that truck weight data collected using weigh-in-motion devices and site description data be submitted to FHWA annually.

Estimated Average Burden per Response: The SDOTs already collect traffic data for various purposes. In accordance with 23 U.S.C. 303, each State has a Traffic Monitoring System in place so the data collection burden relevant for this notice is the additional burden for each State to provide a copy of their traffic data using the record formats specified in the *Traffic Monitoring Guide.* Automation and online tools continue to be developed in support of the HVTIS and the capability now exists for online submission and validation of total volume data. The estimated average monthly burden is 3.5 hours for an annual burden of 42 hours. The annual reporting requirement is estimated to be 6 hours for the States and the District of Columbia and Puerto Rico. The combined burden from the monthly and annual reports is 48 hours per respondent.

Estimated Total Annual Burden Hours: Total burden will be 2,496 hours.

Public Comments Invited: 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 burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended, and 49 CFR 1.48.

Issued on: June 20, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–12362 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–28562]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 27, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2007–28562 by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gloria Williams, 202–366–5032, Department of Transportation, Federal Highway Administration, Office of Policy and Governmental Affairs, 1200 New Jersey Avenue, SE., Washington, DC, 20590. Office hours are from 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Certification of Enforcement of the Heavy Vehicle Use Tax.

OMB Control #: 2125–0541.

Background: Title 23 United States Code, Section 141(c), provides that a State's apportionment of funds under 23 U.S.C. 104(b)(5) shall be reduced in an amount up to 25 percent of the amount to be apportioned during any fiscal year beginning after September 30, 1984, if vehicles subject to the Federal heavy vehicle use tax are lawfully registered in the State without having presented proof of payment of the tax. The annual certification by the State Governor or designated official regarding the collection of the heavy vehicle use tax serves as the FHWA's primary means of determining State compliance. The FHWA has determined that an annual certification of compliance by each State is the least obtrusive means of administering the provisions of the legislative mandate. In addition, States are required to retain for one year Schedule 1, IRS Form 2290, Heavy Vehicle Use Tax Return (or other suitable alternative provided by regulation). The FHWA conducts compliance reviews at least once every 3 years to determine if the annual certification is adequate to ensure effective administration of 23 U.S.C. 141(c).

Respondents: 50 State Transportation Departments, and the District of Columbia for a total of 51 respondents.

Frequency: Annually.

Estimated Average Annual Burden per Response: The average burden to submit the certification and to retain required records is 12 hours per respondent.

Estimated Total Annual Burden Hours: Total estimated average annual burden is 612 hours.

Public Comments Invited: 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 burdens; (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. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C., Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 20, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–12455 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Rock and Walworth Counties, Wisconsin

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed improvement of USH 14/STH 11 between Janesville, in Rock County, and IH 43 near Darien, in Walworth County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Chandler, Field Operations Engineer, Federal Highway Administration 567 D'Onofrio Drive, Suite 100, Madison, Wisconsin, 53719–2814; telephone: (608) 829–7514. You may also contact Mr. Eugene Johnson, Director, Bureau of Equity and Environmental Services, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965; telephone: (608) 267–9527.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512–1661, by using a computer, modem, and suitable communications software. Internet users may reach the Office of Federal Register's home page at: *http://www.archives.gov/* and the Government Printing Offices' database at: *http://www.gpoaccess.gov/nara/index.html.*

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare an Environmental Impact Statement to evaluate improvement alternatives for USH 14/STH 11. The project begins at USH 14 on the northwest side of Janesville, in Rock County, and extends approximately 25 miles to IH 43 near Darien, in Walworth County, Wisconsin. The EIS will be prepared in accordance with 40 CFR Part 1500 and FHWA regulations.

Improvements to the highway are considered necessary to lessen congestion, improve safety, and provide efficient regional connections.

Planning, environmental, and engineering studies are underway to develop transportation alternatives. The EIS will assess the need, location, and environmental impacts of alternatives within the study area. Possible improvement alternatives include a no build alternative, which assumes the continued use of the existing facility with the improvements necessary to ensure its continued use; an improved 2-lane highway with intersection improvements, passing lanes, and wider shoulders; the addition of lanes to create a 4-lane highway, and evaluation of one or more alternatives that follow new alignments. In addition, alternatives for a potential by-pass connecting USH 14 and STH 11 on the west side of Janesville will be evaluated. These alternatives include 2 and 4-lane connections along various alignments, as well as consideration of a freeway type highway.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed, or are known to have interest in this proposal. Local officials and the public will be given many opportunities to provide comments during the course of the study. There will be public information meetings throughout the data gathering and development and evaluation of alternatives. Two public hearings will be held. Public notice will be given of the time and place of the meetings and hearings. The Draft EIS will be available for public and agency review prior to the hearings. Several newsletters will be sent to keep local residents informed of the study's progress. A project Web site has been established to help provide information on the project. The Web site address is *http://www.dot.wisconsin.gov/projects/dl/wis11study/index.htm.*

In addition, two committees have been formed, a Technical Committee and an Advisory Committee, that will meet throughout the life of the study. These committees are made up of local government officials and agency personnel and they will be responsible for helping define the project purpose and need, as well as providing input and comments on alternatives.

The anticipated format for the EIS will be Screening Worksheets rather than the typical narrative form. The Wisconsin Department of Transportation has developed a series of Environmental Screening Worksheets, which are divided into Basic Sheets and Factor Sheets. The Screening Worksheets provide a flexible means of addressing the requirements for an Environmental Document.

To ensure that the full range of issues related to this proposed action is addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the addresses provided in the caption **FOR FURTHER INFORMATION CONTACT.**

Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this action. It is also Federal and State policy that no group of people bears the negative consequences of this action in a disproportionately high and adverse manner without adequate mitigation.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: May 24, 2007.

Mark R. Chandler,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 07–3141 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2007–28563]

Notice of Request for the Revision of Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35001 *et seq.*), this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the revision of the currently approved information collection: 49 U.S.C. 5335(a) and (b) National Transit Database NTD). FTA would like to add the collection of rural transit data under the NTD to this collection, as mandated by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), enacted August 10, 2005.

DATES: Comments must be submitted before August 27, 2007.

ADDRESSES: You may mail or hand-deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be faxed to (202) 493–2251; or submitted electronically at *http://dms.dot.gov.* All comments should include the docket number in this notice's heading. All comments may be examined and copied at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you desire a receipt, you must include a self-addressed, stamped envelope or postcard or, if you submit your comments electronically, you may print the acknowledgement page.

FOR FURTHER INFORMATION CONTACT: John D. Giorgis, National Transit Database Contracting Officer's Technical Representative, Office of Budget and Policy, FTA, phone: 202–366–5430, fax: 202–366–7989, or e-mail: *john.giorgis@dot.gov* or you may contact Shauna J. Coleman, Office of Chief Counsel, FTA, phone: 202–366–4063, fax: 202–366–3809, or e-mail: *shauna.coleman@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. 5335(a) and (b) National Transit Database.

(OMB Number: 2132–0008).

Background: Title 49 U.S.C. 5335(a) and (b) requires the Secretary of Transportation to maintain a reporting system by uniform categories to accumulate mass transportation financial and operating information using a uniform system of accounts and records. Congress created the NTD to be the repository of transit data for the nation, on which to base public transportation service planning. Section 3033 of SAFETEA–LU amended 49 U.S.C. 5335 to require recipients of 49 U.S.C. 5311 grants to submit an annual report containing total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size and type; and related facilities: Revenue vehicle miles and ridership. The addition of this requirement for recipients of 49 U.S.C. 5311 does not affect the existing NTD data collection from urbanized area agencies, including the mandatory NTD reporting requirement for recipients of 49 U.S.C. 5307 grants (Urbanized Area Formula grants).

FTA will not require these smaller rural agencies to submit the same level of detail to the NTD as a system in an urbanized area. FTA will only require the State Department of Transportation (DOT) to submit a one-page form for each rural agency in the State that is the recipient or beneficiary of grants under 49 U.S.C. 5311. Most State DOTs already produce reports for their State legislatures with this summary data. Additionally, FTA will require each State DOT to report the number of counties in the State that are served by recipients of grants under 49 U.S.C. 5311. For purposes of this data collection, Puerto Rico, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands will report as States (by 49 U.S.C. 5307(1). The U.S. Virgin Islands is an urbanized area for purposes of FTA grantmaking and does not receive grants under 49 U.S.C. 5311. Additionally, FTA will require this report from federally-recognized Native American tribes that are direct recipients of grants under 49 U.S.C. Section 5311 and whose information is not included in a report of a State DOT. The reporting requirements for this program have been developed after years of consultation with State DOTs and rural transit agencies.

On November 30, 2005, FTA published in the **Federal Register** (70 FR 71950, November 30, 2005) the procedures and start dates for mandatory annual reporting that State DOTs must follow when submitting rural transit data to FTA. The rural transit data reporting procedures are specified in the Rural NTD Module Reporting Manual which contains detailed reporting instructions for this data collection. It can be reviewed on the NTD Web site at *http://www.ntdprogram.gov.* and will be submitted for notice and comment in a future **Federal Register** announcement. For 2006, many States have reported data to the NTD for approximately 1,600 rural systems under a voluntary pilot program. The majority of States reported all of their data without any formal training.

FTA is requesting a revision of the currently approved NTD information collection (OMB Control Number 2132–008) to include the addition of rural reporting.

Rural Respondents: State DOTs and some tribal governments.

Estimated Annual Burden on Respondents: Approximately one hour is required to complete the one-page form for each of the 1,600 recipients of grants under 49 U.S.C. 5311. The average for each State DOT that files on behalf of the grant recipients is less than 31 hours each year.

Estimated Total Annual Rural Burden: 1,600 hours.

Frequency: Annual reports.

Urban reporting is currently included in the approved NTD information collection.

Urban Respondents: The respondents are primarily public transit authorities that are agencies of State and local governments. Reporters also include entities under contract to public transit agencies, such as, business or other for-profit institutions, non-profit institutions, and small business organizations.

Estimated Annual Urban Burden on Urban Respondents: There are 660 total potential respondents, of which 80 very small systems seek exemptions from filing. Annually, about 580 entities file detailed reports. The annual burden on each of the 580 respondents is 395 hours.

Estimated Total Annual Urban Burden: 229,100 hours.

Frequency: Primarily annual, with monthly safety, security and ridership reports.

Total Estimated Annual Burden for Rural and Urban Respondents: 230,700 hours.

Issued: June 20, 2007.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E7–12361 Filed 6–26–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 22, 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 July 27, 2007 to be assured of consideration.

Community Development Financial Institutions Fund

OMB Number: 1559–XXXX.

Type of Review: New collection.

Title: CDFI Fund Project Profile Web Form.

Description: This is a voluntary collection of narrative descriptions of projects financed by Fund awardees and allocatees via the CDFI/CDE Project Profile Web Form.

Respondents: Business and other for-profit institutions, and not-for-profit institutions.

Estimated Total Burden Hours: 250 hours.

Clearance Officer: Ashanti McCallum, (202) 622–9018, Community Development Financial Institutions Fund, Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–12440 Filed 6–26–07; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (VA FL 22–909)]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 27, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900-New (VA FL 22–909)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, Fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900-New (VA FL 22–909).''

SUPPLEMENTARY INFORMATION: *Title:* Dependents' Educational Assistance (DEA) Election Request, VA Form Letter 22–909.

OMB Control Number: 2900-New (VA FL 22–909).

Type of Review: Existing collection in use without an OMB control number.

Abstract: VA must notify eligible dependents of veterans receiving DEA benefits of their option to elect a beginning date to start their DEA benefits. VA will use the data collected on VA Form Letter 22–909 to determine the appropriate amount of benefit is payable to the claimant.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 22, 2007, at page 8073.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,718 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Annual Responses: 22,872.

Dated: June 18, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12349 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0619]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on rapid response to electronic inquiries submitted to VA through the Inquiry Routing and Information System (IRIS).

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 27, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov.* Please refer to ''OMB Control No. 2900–0619'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Stout (202) 273–8664 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of

the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Inquiry Routing and Information System (IRIS).

OMB Control Number: 2900–0619.

Type of Review: Extension of a currently approved collection.

Abstract: The World Wide Web is a powerful medium for the delivery of information and services to veterans, dependents, and active duty personnel worldwide. IRIS allows a customer to submit questions, complaints, compliments, and suggestions directly to the appropriate office at any time and receive an answer more quickly than through standard mail. IRIS does not provide applications to veterans or serve as a conduit for patient data, etc.

Affected Public: Individuals or households.

Estimated Annual Burden: 26,000 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 13,000.

Dated: June 18, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12350 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (VA Form 10–0430)]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 27, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900-New (VA Form 10–0430)'' in any correspondence.

For Further Information or a Copy of the Submission Contact: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–7045 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900-New (VA Form 10–0430).''

SUPPLEMENTARY INFORMATION: *Title:* Regulation on Reduction of Nursing Shortages in State Homes; Application for Assistance for Hiring and Retaining Nurses at State Homes, VA Form 10–0430.

OMB Control Number: 2900-New (VA Form 10–0430).

Type of Review: Extension of a currently approved collection.

Abstract: State Veterans' Homes complete VA Form 10–0430 to request funding to assist in the hiring and retention of nurses at their facility. VA will use the data collected to determine State homes eligibility and the appropriate amount of funding.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 2, 2007, at page 15763.

Affected Public: State, Local or Tribal Government.

Estimated Annual Burden: 133.

Estimated Average Burden Per Respondent: 2 hours.

Frequency of Response: One time.

Estimated Number of Respondents: 67.

Dated: June 18, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12351 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (VA Form 10–0449A)]

Agency Information Collection: Emergency Submission for OMB Review; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the United States Department of Veterans Affairs (VA) has submitted to the Office of Management and Budget (OMB) the following emergency proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3507(j)(1)). An emergency clearance is being requested in response to the Health Insurance Portability and Accountability Act (HIPAA) to provide National Provider Identifier numbers to non-VA health care providers seeking reimbursement claims.

DATES: Comments must be submitted on or before July 11, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–New (VA Form 10–0449A)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail d*enise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–New (VA Form 10–0449A).''

SUPPLEMENTARY INFORMATION: *Title:* Request for National Provider Identification Number, VA Form 10–0449A.

OMB Control Number: 2900–New (VA Form 10–0449A).

Type of Review: New collection.

Abstract: Health care providers for veterans in the private sector (non-VA providers) are requesting local VA medical centers to provide National Provider Identifier (NPI) numbers for VA facilities and VA clinicians who have referred patients to them. Non-VA providers need NPI numbers in order to

receive payments from Medicare or other payers.

Affected Public: Business or other for profit.

Estimated Total Annual Burden: 10 hours.

Estimated Average Burden Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 200.

Dated: June 18, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12352 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0144]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to apply for a home loan guaranty.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 27, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0144'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: HUD/VA Addendum to Uniform Residential Loan Application, VA Form 26–1802a, and Freddie Mac 65/Fannie Mae Form 1003, Uniform Residential Loan Application.

OMB Control Number: 2900–0144.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1802a serves as a joint loan application for both VA and the Department of Housing and Urban Development (HUD). Lenders and veterans use the form to apply for guaranty of home loans.

Affected Public: Individuals or households, and Business or other for-profit.

Estimated Annual Burden: 20,000 hours.

Estimated Average Burden Per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 200,000.

Dated: June 18, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12353 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0691]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 27, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0691'' in any correspondence.

For Further Information or a Copy of the Submission Contact: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–7045 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0691.''

SUPPLEMENTARY INFORMATION: *Title:* Learner's Perception (LP) Survey, VA Form 10–0439.

OMB Control Number: 2900–0691.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–0439 will be use to obtain health care trainees' perception of their clinical experience with VA versus non-VA facilities. VA will use the data to identify strengths and opportunities for improvement in VA clinical training programs.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 18, 2007 at page 19586.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,250 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 9,000.

Dated: June 19, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12354 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0018]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of General Counsel (OGC), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine accredited service organization representatives' qualification to represent claimants before VA.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 27, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Michael Daugherty, Office of General Counsel (20), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *michael.daugherty@va.gov.* Please refer to ''OMB Control No. 2900–0018'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Daugherty at (202) 273–6315 or FAX (202) 273–6404.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OGC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OGC's functions, including whether the information will have practical utility; (2) the accuracy of OGC's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Accreditation as Service Organization Representative; Accreditation Cancellation Information, VA Form 21.

OMB Control Number: 2900–0018.

Type of Review: Revision of a currently approved collection.

Abstract: Service organizations are required to file an application with VA to establish eligibility for accreditation for representatives of that organization to represent benefit claimants before VA. VA Form 21 is completed by service organizations to establish accreditation for representatives, recertify the qualifications of accredited representatives, and to cancel representatives' accreditation due to misconduct or lack of competence. VA uses the information collected to determine whether service organizations representatives continue to meet regulatory eligibility requirements and to ensure claimants have qualified representatives to assist in the preparation, presentation, and prosecution of their claims for benefits.

Affected Public: Individuals or households, Not-for profit institutions, and State, Local, or Tribal Government.

Estimated Annual Burden: 1,003 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,780.

Dated: June 18, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12355 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0092]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 27, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0092'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, Fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0092.''

SUPPLEMENTARY INFORMATION: *Title:* Rehabilitation Needs Inventory, VA Form 28–1902w.

OMB Control Number: 2900–0092.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 28–1902w is mailed to service-connected disabled veterans who submitted an application for vocational rehabilitation benefits. VA will use data collected to determine the types of rehabilitation programs the veteran will need.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 18, 2007, at pages 19586–19587.

Affected Public: Individuals or households.

Estimated Annual Burden: 35,000 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 35,000.

Dated: June 19, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–12356 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Disability Benefits Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under (Pub. L. 92–463) (Federal Advisory Committee Act) that the Veterans' Disability Benefits Commission has scheduled a meeting for July 18-20, 2007 at the Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC. The meeting sessions will begin at 8:30 a.m. each day and end at 5:15 p.m. on July 18 and 19. The July 20 session will end at 3 p.m. The meeting is open to the public.

The purpose of the Commission is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

The agenda for the meeting will feature final decisions on several Issue Papers tentatively approved during previous sessions, continuing discussions and tentative decisions on the Issue Papers addressing Concurrent Receipt and Survivors Concurrent Receipt, and stakeholder input on the three Issue Papers released in June 2007 for public comment. Those three Papers are entitled: Vocational Rehabilitation & Employment, Ancillary and Special Purpose Benefits, and the Transition Report. Draft sections of the Commission's final report and its guiding principles will also be addressed. The Government Accountability Office will brief the Commission on its findings regarding information technology sharing between VA and the Department of Defense (DoD). The Chairman of the Commission on the National Guard and Reserves will present the findings and recommendations of that panel.

The agenda will also feature an overview of the Institute of Medicine (IOM) Committee on Presumptions' final report and discussions of its findings and recommendations with the Commission. The Center for Naval Analyses (CNA) will present its final briefing on the comparison of DoD and VA disability ratings and the Executive Summary of its final report to the Commission. Topics raised in previous sessions will also be discussed at the meeting in great detail to include: a joint VA–DoD disability process; an assessment by the Institute for Defense Analysis of variations in VA ratings; and VA review of IOM final reports on the Post-Traumatic Stress Disorder (PTSD) Diagnosis & Assessment and PTSD Compensation studies.

Interested persons may attend and present oral statements to the Commission on July 18. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Commission prior to the meeting, by e-mail to *veterans@vetscommission.com* or by mail to Mr. Ray Wilburn, Executive Director, Veterans' Disability Benefits Commission, 1101 Pennsylvania Avenue, NW., 5th Floor, Washington, DC 20004.

Dated: June 20, 2007.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–3128 Filed 6–26–07; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 72, No. 123

Wednesday, June 27, 2007

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

Correction

In notice document 07–3000 beginning on page 33743 in the issue of Tuesday, June 19, 2007, make the following correction:

On page 33743, in the second column, under the *Date* heading, ''Sunday'' should read ''Saturday''.

[FR Doc. C7–3000 Filed 6–26–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Solicitation for Estuary Habitat Restoration Program

Correction

In notice document 07–3002 beginning on page 33743 in the issue of Tuesday, June 19, 2007, make the following corrections:

1. On page 33743, in the third column, under the **ADDRESSES** heading, in the second line, ''*http://www.usace.army.mil/cw/cecwp/estuary__act/index.htm*'' should read ''*http://www.usace.army.mil/cw/cecw-p/estuary__act/index.htm*''.

2. On page 33744, in the first column, under the **Introduction** heading, in the first paragraph, in the nineteenth line, ''*http://www.usace.army.mil/cw/cecwp/estuary__act/index.htm*'' should read ''*http://www.usace.army.mil/cw/cecw-p/estuary__act/index.htm*''.

3. On page 33747, in the third column, under the **Project Selection and Notification** heading, in the first paragraph, in the sixth line, ''funds and reasonable'' should read ''funds and any reasonable''.

4. On page 33748, in the first column, under the **Application Process** heading, in the second line, ''*http://www.usace.army.mil/cw/cecwp/estuary__act/index.htm*'' should read ''*http://www.usace.army.mil/cw/cecw-p/estuary__act/index.htm*''.

[FR Doc. C7–3002 Filed 6–26–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Correction

In notice document 07–2932 appearing on page 32865 in the issue of Thursday, June 14, 2007, make the following corrections:

1. In the first column, in the first paragraph, in the fifth line, ''MidAmerian'' should read ''MidAmerican''.

2. In the same column, in the same paragraph, in the tenth line, ''degree'' should read ''decree''.

3. In the same column, in the same paragraph, in the fourth line from the bottom, ''city'' should read ''City''.

4. In the same column, in the third paragraph, in the third line from the bottom, ''covenant'' should read ''covenants''.

[FR Doc. C7–2932 Filed 6–26–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Protection Act of 1993—Advanced Energy Consortium

Correction

In notice document 07–2854 appearing on page 31855 in the issue of Friday, June 8, 2007, make the following corrections:

1. In the third column, in the first full paragraph, in the second line, ''identifies'' should read ''identities''.

2. In the same column, in the same paragraph, in the 13th line, ''wa'' should read ''was''.

[FR Doc. C7–2854 Filed 6–26–07; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9903

Cost Accounting Standards Board (CAS) Changes to Acquisition Thresholds

Correction

In rule document E7–11328 beginning on page 32809 in the issue of Thursday, June 14, 2007, make the following correction:

9903.202–1 [Corrected]

On page 32812, in the third column, in 9903.202–1, in the seventh and eighth lines from the bottom of the page, amendatory instructions 8.A. and 8.B. are corrected to read as follows:

''A. Paragraph (c) introductory text;

B. The first sentence of paragraph (f)(2)(i); and''

[FR Doc. Z7–11328 Filed 6–26–07; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2006–23882]

RIN 2127–AH34

Federal Motor Vehicle Safety Standards; Door Locks and Door Retention Components

Correction

Rule document 07-517 was inadvertently published in the Proposed Rules section of the issue of February 6, 2007, beginning on page 5385. It should have appeared in the Rules section.

[FR Doc. C7–517 Filed 6–26–07; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
June 27, 2007

Part II

Securities and Exchange Commission

17 CFR Parts 210, 228, 229 and 240
Amendments to Rules Regarding Management's Report on Internal Control Over Financial Reporting; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 228, 229 and 240

[Release Nos. 33–8809; 34–55928; FR–76; File No. S7–24–06]

RIN 3235–AJ58

Amendments to Rules Regarding Management's Report on Internal Control Over Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting an amendment to our rules to clarify that an evaluation which complies with the Commission's interpretive guidance published in this issue of the **Federal Register** in Release No. 34–55929 is one way to satisfy the requirement for management to evaluate the effectiveness of the issuer's internal control over financial reporting. We are also amending our rules to define the term material weakness and to revise the requirements regarding the auditor's attestation report on the effectiveness of internal control over financial reporting. The amendments are intended to facilitate more effective and efficient evaluations of internal control over financial reporting by management and auditors.

DATES: *Effective Date:* August 27, 2007, except the amendment to § 210.2–02T is effective from August 27, 2007 until June 30, 2009.

FOR FURTHER INFORMATION CONTACT: N. Sean Harrison, Special Counsel, Division of Corporation Finance, at (202) 551–3430, or Josh K. Jones, Professional Accounting Fellow, Office of the Chief Accountant, at (202) 551–5300, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

SUPPLEMENTARY INFORMATION: We are adopting amendments to Rules 13a–15(c),[1] 15d–15(c),[2] and 12b–2[3] under the Securities Exchange Act of 1934 (the ''Exchange Act''),[4] Rules 1–02,[5] 2–02[6] and 2–02T[7] of Regulation S–X,[8] and Item 308 of Regulations S–B and S–K.[9]

In a companion release issued in today's **Federal Register**, we are issuing interpretive guidance to assist companies of all sizes in completing top-down, risk-based evaluations of internal control over financial reporting.[10] In addition, we are issuing a release to request additional comment on the definition of the term ''significant deficiency.''[11]

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I. Background

In implementing Section 404(a) of the Sarbanes-Oxley Act of 2002[12] (''Sarbanes-Oxley''), the Commission adopted amendments to Exchange Act Rules 13a–15 and 15d–15 to require companies, other than registered investment companies, to include in their annual reports filed pursuant to Section 13(a) or 15(d)[13] of the Exchange Act a report by management on the company's internal control over financial reporting (''ICFR'') and a registered public accounting firm's attestation report on ICFR. Rules 13a–15 and 15d–15 also require management of each company to evaluate the effectiveness, as of the end of each fiscal year, of the company's ICFR.[14]

On December 20, 2006, the Commission issued a proposing release that contained interpretive guidance for management (''Proposed Interpretive Guidance'') regarding its required evaluation of ICFR and amendments to Exchange Act Rules 13a–15(c) and 15d–15(c) to make it clear that an evaluation conducted in accordance with the Proposed Interpretive Guidance was one way to satisfy the annual management evaluation required by those rules. In addition, we proposed amendments to Rule 2–02(f) of Regulation S–X to require that the registered public accounting firm's attestation report on ICFR express a single opinion directly on the effectiveness of ICFR, and to clarify the circumstances in which we would expect that the accountant cannot express an opinion on ICFR. We also proposed amendments to Rule 1–02(a)(2) of Regulation S–X to revise the definition of attestation report to conform it to the proposed changes to Rule 2–02(f).[15]

We received over 200 comment letters in response to our Proposing Release.[16] These letters came from corporations, professional associations, large and small accounting firms, law firms, consultants, academics, investors and other interested parties. Of these, approximately 70 respondents commented on the proposed rule amendments. We have reviewed and considered all of the comments that we received on the proposed rule amendments. The adopted rules reflect changes made in response to many of these comments. We discuss our conclusions with respect to each proposed rule amendment and the related comments in more detail throughout this release.

II. Discussion of Amendments

A. Exchange Act Rules 13a–15(c) and 15d–15(c)

1. Proposal

Exchange Act Rules 13a–15(c) and 15d–15(c) require the management of each issuer subject to the Exchange Act reporting requirements, other than a registered investment company, to evaluate the effectiveness of the issuer's ICFR as of the end of each fiscal year. We proposed to amend these rules to state that, although there are many different ways to conduct an evaluation of the effectiveness of ICFR, an evaluation conducted in accordance with the Proposed Interpretive Guidance would satisfy the evaluation requirement in those rules.

[1] 17 CFR 240.13a-15(c).
[2] 17 CFR 240.15d-15(c).
[3] 17 CFR 240.12b-2.
[4] 15 U.S.C. 78a *et seq.*
[5] 17 CFR 210.1–02.
[6] 17 CFR 210.2–02.
[7] 17 CFR 210.2–02T.
[8] 17 CFR 210.1–01 *et seq.*
[9] 17 CFR 228.308 and 229.308.

[10] Release No. 34–55929 (Jun. 20, 2007) (hereinafter ''Interpretive Guidance'').
[11] Release No. 34–55930 (Jun. 20, 2007).
[12] 15 U.S.C. 7262.
[13] 15 U.S.C. 78m(a) or 78o(d).
[14] Release No. 33–8238 (June 5, 2003) [68 FR 36636] (hereinafter ''Adopting Release''). See Release No. 33–8392 (Feb. 24, 2004) [69 FR 9722] for compliance dates applicable to accelerated filers. See Release No. 33–8760 (Dec. 15, 2006) [71 FR 76580] for compliance dates applicable to non-accelerated filers.
[15] Release Nos. 33–8762; 34–54976 (Dec. 20, 2006) [71 FR 77635] (hereinafter ''Proposing Release'').
[16] The comment letters are available for inspection in the Commission's Public Reference Room at 100 F Street, NE., Washington, DC 20549 in File No. S7–24–06, or may be viewed at *http://www.sec.gov/comments/s7–24–06/s72406.shtml.*

2. Comments on the Proposal

While many commenters supported the proposed amendments to Rules 13a–15 and 15d–15,[17] some expressed the view that although the guidance is appropriately principles-based, the nature of the requirements set forth in the Proposed Interpretive Guidance is not well-suited to the type of safe-harbor protection intended by the amendments.[18] For instance, three commenters suggested that the Proposed Interpretive Guidance does not contain specific, objective criteria that a company's management could use to demonstrate that its evaluation complies with the requirements of the Proposed Interpretive Guidance.[19] Consequently, two of these commenters went on to conclude that the amendments may eventually lead to the Interpretive Guidance being viewed as an exclusive evaluation approach. In light of these and similar concerns, one commenter suggested broadening the amended rule language to explicitly indicate that an evaluation provides a reasonable basis for management's ICFR assessment if it includes: (1) An identification of the risks that are reasonably likely to result in a material misstatement of the company's financial statements; (2) an evaluation of whether the company has placed controls in operation that are designed to address those risks; and (3) a risk-based process for gathering and evaluating evidence regarding the effective operation of those controls.[20]

One commenter opposed both the Proposed Interpretive Guidance and the proposed rule amendments and expressed the view that management will, as a result of the nature of the Proposed Interpretive Guidance, claim the protection afforded by the amendments for deficient evaluations.[21] Another commenter expressed the view that the proposed rule amendments could result in a ''minimalist'' attitude towards the internal control evaluation on the part of management.[22]

3. Final Rule

After consideration of the comments that we received, we have determined to adopt the amendments to Rules 13a–15(c) and 15d–15(c) as proposed. The amended rules state that there are many different ways to conduct an evaluation that will satisfy the evaluation requirement in the rules, and the Interpretive Guidance clearly states that compliance with the guidance is voluntary. Therefore, concerns that the amendments may cause confusion as to whether compliance with the Interpretive Guidance is mandatory or may result in an exclusive standard are unfounded. We understand that many companies already complying with the Section 404 requirements have established an ICFR evaluation process that may differ from the approach described in the Interpretive Guidance. There is no requirement for these companies to alter their procedures to align them with the Interpretive Guidance.

We have decided not to broaden the amended rule language to include factors to consider in determining whether alternative methods satisfy the standard primarily because we think this type of ''broadening'' may actually limit the potential universe of acceptable evaluation methods. For example, while we believe the Interpretive Guidance's top-down, risk-based approach will result in both effective and efficient evaluations of the effectiveness of ICFR, management may choose to establish an alternative evaluation approach. An alternative approach may be deemed preferable if it complements a company's existing quality improvement processes or enterprise risk management methodologies and still provides management with a reasonable basis for its assessment of ICFR effectiveness. Therefore, we do not think it is appropriate or necessary to mandate the approach set forth in the Interpretive Guidance.

Regarding the comments expressing concern that the principles-based nature of the Proposed Interpretive Guidance may not easily lend itself to the safe-harbor type provisions, we acknowledge that the amendments to Rules 13a–15 and 15d–15 are of a somewhat different nature from other safe-harbor provisions, which typically prescribe very specific conditions that must be met before a company or person may claim protection under the safe-harbor. Nonetheless, we believe establishing the Interpretive Guidance as one way to satisfactorily evaluate ICFR will serve the important purpose of communicating the objectives and requirements of the ICFR evaluation. Moreover, most commenters preferred that the guidance for conducting an evaluation of ICFR be issued on an interpretive basis rather than codified as a rule.[23] Accordingly, a direct reference in the rules to the Interpretive Guidance will help ensure that companies are aware of the guidance.

We are issuing the Interpretive Guidance, and taking a series of other steps, to improve and strengthen implementation of the ICFR requirements. Regardless of whether management uses the Interpretive Guidance, we remain committed to a strong implementation of the ICFR requirements and to ensuring that issuers perform a sufficient evaluation. As is currently the case, the sufficiency of an evaluation will be determined based on each issuer's particular facts and circumstances.

B. Rules 1–02 and 2–02 of Regulation S–X and Item 308 of Regulations S–B and S–K

1. Proposal

Rule 2–02(f) of Regulation S–X requires the registered public accounting firm's attestation report on management's assessment of ICFR to clearly state the ''opinion of the accountant as to whether management's assessment of the effectiveness of the registrant's ICFR is fairly stated in all material respects.'' The term ''assessment'' as used in Rule 2–02(f) refers to management's disclosure of its conclusion about the effectiveness of the company's ICFR, not the efficacy of the process followed by management to arrive at its conclusion. To more effectively communicate the auditor's responsibility in relation to management's assessment, we proposed to revise Rule 2–02(f) to require the auditor to express an opinion directly on the effectiveness of ICFR. We believe this opinion necessarily conveys whether the disclosure of management's assessment is fairly stated. In addition, we proposed revisions to Rule 2–02(f) to clarify the rare circumstances in which the accountant would be unable to express an opinion.

[17] See, for example, letters from America's Community Bankers (ACB), BP p.l.c. (BP), Business Roundtable, Enbridge Inc., European Association of Listed Companies, Hudson Financial Solutions (Hudson), ING Group N.V. (ING), PPL Corporation (PPL), Silicon Valley Leadership Group (SVLG), The Hundred Group of Finance Directors (100 Group), and UnumProvident Corporation (UnumProvident).

[18] See, for example, letters from American Electronics Association (AeA), James J. Angel, Cleary Gottlieb Steen & Hamilton LLP (Cleary), Financial Reporting Committee of the Association of the Bar of the City of New York (NYC Bar), and U.S. Chamber of Commerce (Chamber).

[19] See, for example, letters from Cleary, NYC Bar, and Reznick Group, P.C.

[20] See letter from Cleary.

[21] See joint letter from Consumer Federation of America, Consumer Action, and U.S. Public Interest Research Group.

[22] See letter from Tatum LLC.

[23] Approximately thirty-three commenters directly responded to the question about whether the guidance should be issued as an interpretation or codified as a Commission rule. Approximately 70% of such respondents indicated that the guidance should be issued as an interpretation.

We also proposed conforming revisions to the definition of attestation report in Rule 1–02(a)(2) of Regulation S–X. The PCAOB proposed a conforming revision to its auditing standard to reflect this revision as well.[24]

2. Comments on the Proposal

We received comments on the proposed revisions to Rules 1–02(a)(2) and 2–02(f) of Regulation S–X to require the expression of a single opinion directly on the effectiveness of ICFR by the auditor in the attestation report on ICFR. Those who commented on this proposed amendment were equally divided, with approximately one-half supporting the Commission's proposal to eliminate the auditor's opinion on management's assessment of the effectiveness of ICFR,[25] and the other half expressing the view that, although the reduction to one opinion by the auditor was preferable, the opinion retained would limit improvements in the efficiency of the 404 process.[26]

Commenters who supported the Commission's proposal believe that an auditor's opinion directly on the effectiveness of a company's ICFR provides investors with a higher level of assurance than the opinion only on management's assessment. These commenters also suggested that an audit opinion directly on the effectiveness of ICFR was a clearer expression of the scope of the auditor's work. However, those who opposed the Commission's proposal argued that an audit opinion directly on the effectiveness of ICFR would require duplicative, unnecessary and excessive testing by auditors and would therefore lead to higher audit costs.[27] These commenters suggested the auditor's work should be limited to evaluating management's assessment process and the testing performed by management and internal audit. They acknowledged that the auditor would need to test at least some controls directly in addition to evaluating and testing management's assessment process; however, they expected that the auditor's own testing could be significantly reduced from the scope required to render an opinion directly on the effectiveness of ICFR.[28] Additionally, commenters were concerned that the proposed rule change was in direct conflict with Section 404(b) of Sarbanes-Oxley, which explicitly calls for the auditor to issue an attestation report on management's assessment of the effectiveness of ICFR.[29]

In view of the proposal to require only one opinion by the auditor in its report on the effectiveness of a company's ICFR, commenters thought that continued references in Rules 1–02(a)(2) and 2–02(f) of Regulation S–X to an ''attestation report on management's assessment of internal control over financial reporting'' would be confusing.[30] These commenters suggested that we eliminate these references and refer to the auditor's report only as an ''attestation report on internal control over financial reporting.''

3. Final Rule

After consideration of the comments, we have decided to adopt the proposed amendments to Rules 1–02(a)(2) and 2–02(f) of Regulation S–X to require the expression of a single opinion directly on the effectiveness of ICFR by the auditor in its attestation report on ICFR because it more effectively communicates the auditor's responsibility in relation to management's process and necessarily conveys whether management's assessment is fairly stated. In view of this decision, we agree with commenters that Rules 1–02(a)(2) and 2–02(f) of Regulation S–X will be clearer if they refer to the auditor's report as an ''attestation report on internal control over financial reporting'' rather than an ''attestation report on management's assessment of internal control over financial reporting.'' We, therefore, have made this change. We also have made conforming changes to Rule 2–02T of Regulation S–X and Item 308 of Regulations S–B and S–K.[31]

Despite the fact that the revised rules no longer require the auditor to separately express an opinion concerning management's assessment of the effectiveness of the company's ICFR, auditors currently are required under Auditing Standard No. 2 (''AS No. 2''),[32] and would continue to be required under the Proposed Auditing Standard, to evaluate whether management has included in its annual ICFR assessment report all of the disclosures required by Item 308 of Regulations S–B and S–K. Both AS No. 2 and the Proposed Auditing Standard would require the auditor to modify its audit report on the effectiveness of ICFR if the auditor determines that management's assessment of ICFR is not fairly stated. Consequently, the revisions are fully consistent with, and will continue to achieve, the objectives of Section 404(b) of Sarbanes-Oxley.

In considering the concerns raised by commenters about the scope of auditor testing that is required to render an opinion directly on the effectiveness of ICFR, the Commission believes that an auditing process that is restricted to evaluating what management has done would not necessarily provide the auditor with a sufficient level of assurance to render an independent opinion as to whether management's assessment (that is, conclusion) about the effectiveness of ICFR is correct. Moreover, the PCAOB's auditing standards with respect to a company's ICFR derive from both Section 103(a)(2)(A)(iii) and Section 404(b) of Sarbanes-Oxley. Section 404(b) of Sarbanes-Oxley requires the auditor to ''attest to, and report on, the assessment made by the management of the issuer.'' Section 103(a)(2)(A)(iii) of Sarbanes-Oxley requires that each audit report describe the scope of the auditor's testing of the internal control structure and procedures and present, among other information: (1) The findings of the auditor from such testing; (2) an evaluation of whether such internal control structure and procedures provide reasonable assurance that transactions are recorded as necessary to

[24] PCAOB Release No. 2006–007: Proposed Auditing Standard—An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements. See *http://www.pcaobus.org/Rules/Docket_021/index.aspx* (hereinafter ''Proposed Auditing Standard'').

[25] See, for example, letters from Banco Itaú Holding Financeira SA, BP, Cisco Systems, Inc. (Cisco), Computer Sciences Corporation (CSC), Eli Lilly and Company (Eli Lilly), Frank Consulting, PLLP, Grant Thornton LLP, Kimball International (Kimball), Lubrizol Corporation (Lubrizol), MetLife, Inc. (MetLife), NYC Bar, PPG Industries, Inc. (PPG), The Procter & Gamble Company (P&G), and RAM Energy Resources, Inc.

[26] See, for example, letters from 100 Group, Alamo Group, Association of Chartered Certified Accountants (ACCA), BHP Billiton Limited (BHP), European Federation of Accountants (FEE), The Financial Services Roundtable (FSR), Hess Corporation (Hess), Hutchinson Technology Inc. (Hutchinson), Institute of Internal Auditors (IIA), Institute of Management Accountants (IMA), Institut Der Wirtschaftsprufer [Institute of Public Auditors in Germany] (IDW), Ian D. Lamdin (I. Lamdin), Matthew Leitch, Nasdaq Stock Market, Inc. (Nasdaq), National Venture Capital Association (NVCA), Nike, Inc. (Nike), Robert F. Richter (R. Richter), Rod Scott, Southern Company (Southern), and SVLG.

[27] See, for example, letters from 100 Group, ACCA, Hess, Nasdaq, Nike, and Southern.

[28] See, for example, letters from BHP and NVCA.

[29] See, for example, letters from FEE, FSR, Hutchinson, IDW, IIA, IMA, I. Lamdin, and R. Richter.

[30] See, for example, letters from 100 Group, BDO Seidman LLP, Cleary, Financial Executives International Committee on Corporate Reporting (FEI CCR), Manulife Financial (Manulife), Microsoft Corporation (MSFT), Neenah Paper, Inc (Neenah), and NYC Bar.

[31] Item 308 sets forth the ICFR disclosure that must be included in a company's annual and quarterly reports.

[32] *An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements.*

permit preparation of financial statements in accordance with generally accepted accounting principles; and (3) a description of material weaknesses in such internal controls.[33]

The Commission believes that an audit opinion directly on the effectiveness of ICFR is consistent with both Section 404 and Section 103 of Sarbanes-Oxley. Further, the Commission believes that the expression of a single opinion directly on the effectiveness of ICFR clarifies that an auditor is not responsible for issuing an opinion on management's process for evaluating ICFR.

C. Definition of Material Weakness

1. Proposal

The Proposed Interpretive Guidance defined a material weakness as a deficiency, or combination of deficiencies, in ICFR such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis by the company's ICFR. Further, we indicated that the definition formulated in the proposal was intended to be consistent with its use in existing auditing literature and practice.[34]

2. Comments on the Proposal

Commenters expressed concern about differences between our proposed definition of material weakness and that proposed by the PCAOB in its Proposed Auditing Standard and requested that the two definitions be aligned.[35] Commenters also suggested that a single definition of material weakness be established for use by both auditors and management. They further thought that we should codify the definition in our rules.[36]

In addition, commenters pointed out that while the Proposed Interpretive Guidance referred to significant deficiencies, the Commission did not include a definition of significant deficiency within the Proposed Interpretive Guidance.[37] Despite the fact that the Proposed Interpretive Guidance did not include a definition of significant deficiency, commenters on this topic provided feedback about both the Commission's proposed definition of material weakness and the definition of significant deficiency as proposed by the PCAOB.[38] Certain commenters indicated that the Commission should include a definition of significant deficiency in the Interpretive Guidance.[39]

Commenters also provided feedback on the probability language in the definition of material weakness. Commenters expressing support for the ''reasonable possibility'' standard in the proposed definition[40] noted that this language improves the clarity of the existing definition and will reduce time spent evaluating deficiencies.[41] In contrast, other commenters felt that the probability standard should be changed.[42] These commenters noted that the meaning of ''reasonably possible'' was the same as ''more than remote'' and therefore would not reduce the effort devoted to identifying and analyzing deficiencies. Two of these commenters suggested the Commission use a ''reasonable likelihood'' standard,[43] and another suggested the Commission change to a ''greater than fifty-percent'' standard.[44] Commenters also requested additional guidance about how the concept of ''materiality'' impacted the definition.[45]

Most of the commenters who addressed the reference to interim financial statements in the definition of material weakness indicated that the word ''interim'' should be removed from the definition,[46] with only one commenter expressing the view that the reference to interim financial statements should remain in the definition.[47] Some commenters who suggested removal of ''interim'' expressed the view that because Section 404 of Sarbanes-Oxley mandates an annual assessment of ICFR, the deficiency evaluation should also be based on the impact to the annual financial statements. Others stated that the removal of ''interim'' would allow management and auditors to better focus on the annual financial statements when evaluating the materiality of control deficiencies.

3. Final Rule

After consideration of the comments received, we have determined that it is appropriate for the Commission's rules to include the definition of material weakness since it is an integral term associated with Sarbanes-Oxley and the Commission's implementing rules. Management's disclosure requirements with respect to ICFR are predicated upon the existence of a material weakness; therefore, we agree with the commenters' suggestion that our rules should define this term, rather than refer to auditing literature. As a result, we are amending Exchange Act Rule 12b–2 and Rule 1–02 of Regulation S–X to define the term material weakness.

We have decided to adopt the material weakness definition substantially as proposed. The Commission has determined that the proposed material weakness definition appropriately describes those conditions in ICFR that, if they exist, should be disclosed to investors and should preclude a conclusion that ICFR is effective. Therefore, our final rules define a material weakness as a

[33] Section 103(a)(2)(A)(iii) states that ''each registered public accounting firm shall—describe in each audit report the scope of the auditor's testing of the internal control structure and procedures of the issuer, required by section 404(b), and present (in such report or in a separate report)—

(I.) The findings of the auditor from such testing;

(II.) An evaluation of whether such internal control structure and procedures—

(aa) Include maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(bb) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and

(III.) A description, at a minimum, of material weaknesses in such internal controls, and of any material noncompliance found on the basis of such testing.''

[34] The PCAOB's Proposed Auditing Standard provided the following definition of material weakness: ''a control deficiency, or combination of control deficiencies, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected.''

[35] See, for example, letters from Edison Electric Institute (EEI), FEI CCR, Financial Executives International Small Public Company Task Force (FEI SPCTF), The Institute of Chartered Accountants in England and Wales (ICAEW), Nina Stofberg, and SVLG.

[36] See, for example, letters from FEE and ICAEW.

[37] See, for example, letters from Cardinal Health, Inc. (Cardinal), EEI, and Protiviti.

[38] The PCAOB's Proposed Auditing Standard provided the following definition of significant deficiency: ''a control deficiency, or combination of control deficiencies, such that there is a reasonable possibility that a significant misstatement of the company's annual or interim financial statements will not be prevented or detected.'' A significant misstatement was defined as ''a misstatement that is less than material yet important enough to merit attention by those responsible for oversight of the company's financial reporting.''

[39] See, for example, letters from Cardinal and Protiviti.

[40] See, for example, letters from Cisco, FEI CCR, Hudson, MetLife, MSFT, and P&G.

[41] See, for example, letters from Cisco, Committee on Capital Markets Regulation (CCMR), FEI SPCTF, Hudson, MetLife, MSFT, Nike, P&G, and TechNet.

[42] See, for example, letters from the American Bar Association's Committees on Federal Regulation of Securities and Law and Accounting of the Section of Business Law (ABA), ACCA, Cardinal Health, Inc., Chamber, CSC, IIA, Kimball, and NYC Bar.

[43] See letters from NYC Bar and Cleary.

[44] See letter from ABA.

[45] See, for example, letters from ABA, CCMR, CSC, Independent Community Bankers of America, ISACA and IT Governance Institute, P&G, and Rockwood Holdings, Inc.

[46] See, for example, letters from ABA, Cisco, Deloitte & Touche LLP, EEI, Eli Lilly, FEI CCR, FEI SPCTF, Ford Motor Company, MSFT, P&G, and PPL.

[47] See letter from MetLife.

deficiency, or a combination of deficiencies, in ICFR such that there is a reasonable possibility that a material misstatement of the registrant's annual or interim financial statements will not be prevented or detected on a timely basis.[48] We anticipate that the PCAOB's auditing standards will also include this definition of material weakness.

After consideration of the proposed alternatives to the ''reasonable possibility'' standard in the proposed definition of material weakness, we decided not to change the proposed standard. Revisions that have the effect of increasing the likelihood (that is, risk) of a material misstatement in a company's financial reports that can exist before being disclosed could give rise to questions about the meaning of a disclosure that ICFR is effective and whether the threshold for ''reasonable assurance'' is being lowered. Moreover, we do not believe improvements in efficiency arising from revisions to the likelihood element would be significant to the overall ICFR evaluation effort, due, in part, to our view that the effort evaluating deficiencies would be similar under the alternative standards (for example, ''reasonable possibility'' as compared to ''reasonable likelihood''). Lastly, we do not believe the volume of material weakness disclosures, which has declined each year since the initial implementation of Section 404 of Sarbanes-Oxley, is too high such that investors would benefit from a reduction in disclosures that would result from a higher likelihood threshold.

Regarding the reference to interim financial statements in the definition of material weakness, while we believe annual materiality considerations are appropriate when making judgments about the nature and extent of evaluation procedures, we believe that the judgments about whether a control is adequately designed or operating effectively should consider the requirement to provide investors reliable annual and quarterly financial reports. Moreover, if management's annual evaluation identifies a deficiency that poses a reasonable possibility of a material misstatement in the company's quarterly reports, we believe management should disclose the deficiency to investors and not assess ICFR as effective. As such, we have not removed the reference to interim financial statements from the definition of material weakness.

In response to the comments regarding the need for the Commission to define the term ''significant deficiency,'' we are seeking additional comment on a definition of that term as part of a separate release issued in the **Federal Register**.

III. Transition Issues

Although the amendments to Rules 1–02 and 2–02 of Regulation S–X will no longer require the auditor to separately express an opinion concerning management's assessment of the effectiveness of the company's ICFR, audits conducted under AS No. 2 will continue to result in a separate opinion on management's assessment until the PCAOB's expected new auditing standard replacing AS No. 2 becomes effective and is required for all audits. Until such time, companies may file whichever report they receive from their independent auditor (that is, either one that contains both opinions under AS No. 2 or the single opinion under the expected new auditing standard).

IV. Background to Regulatory Analyses

Congress enacted the Sarbanes-Oxley Act in July 2002. Section 404 of the Act directed the Commission to prescribe rules requiring each issuer required to file an annual report under Section 13(a) or 15(d) of the Exchange Act[49] to prepare an internal control report. The only Exchange Act reporting companies that Congress exempted from the Section 404 requirements were investment companies registered under Section 8 of the Investment Company Act.[50]

To fulfill its statutory mandate, the Commission adopted rules in June 2003 to require all Exchange Act reporting companies other than registered investment companies, regardless of their size, to include in their annual reports a report of management, and an accompanying auditor's report, on the effectiveness of the company's internal control over financial reporting (''ICFR'').[51]

Although the Commission adopted rules in 2003 creating the obligation for all reporting companies to include ICFR reports in their annual reports, it provided a lengthy compliance period for non-accelerated filers, which are smaller public companies with a public float below $75 million.[52] Under the compliance dates that the Commission originally established, non-accelerated filers would not have become subject to the ICFR requirements until they filed an annual report for a fiscal year ending on or after April 15, 2005. In contrast, accelerated filers and large accelerated filers—companies with a public float of $75 million or more—became subject to the Section 404 requirements with respect to annual reports that they filed for fiscal years ending on or after November 15, 2004.

The Commission provided this lengthy compliance period for non-accelerated filers in light of both the substantial time and resources needed by accelerated filers to properly implement the rules. In addition, it believed that a corresponding benefit to investors would result from an extended transition period that allowed companies to carefully implement the new requirements. After each of the first two years accelerated-filers implemented the Section 404 requirements, the Commission held a roundtable discussion, and solicited comment on issues that arose during implementation.[53]

Since the initial extension period, the Commission has further extended the compliance dates for non-accelerated filers. The Commission adopted the most recent compliance date extension for non-accelerated filers in December 2006.[54] This extension was based, in part, on a recommendation from the Commission's Advisory Committee on Smaller Public Companies (''Advisory Committee''). In its Final Report, issued on April 23, 2006, the Advisory Committee raised a number of concerns regarding the ability of smaller companies to comply cost-effectively with the requirements of Section 404. The Advisory Committee identified as an overarching concern the difference in how smaller and larger public companies operate.

It focused in particular on three characteristics: (1) The limited number of personnel in smaller companies, which constrains the companies' ability to segregate conflicting duties; (2) top management's wider span of control and more direct channels of communication, which increase the risk of management override; and (3) the dynamic and evolving nature of smaller companies, which limits their ability to have static processes that are well-documented.[55]

[48] Exchange Act Rule 12b–2 and Rule 1–02(p) of Regulation S–X.

[49] 15 U.S.C. 78m or 78o(d).

[50] 15 U.S.C. 80a–8.

[51] Release No. 33–8238 (June 5, 2003) (68 FR 36636).

[52] Although the term ''non-accelerated filer'' is not defined in Commission rules, we use it to refer to an Exchange Act reporting company that does not meet the Exchange Act Rule 12b–2 definition of either an ''accelerated filer'' or a ''large accelerated filer.''

[53] As a result of which, the Commission and its staff issued guidance to assist companies in implementing these requirements.

[54] Release No. 33–8760 (Dec. 15, 2006) (71 FR 77635).

[55] *Final Report of the Advisory Committee on Smaller Public Companies to the United States Securities and Exchange Commission* (Apr. 23,

The Advisory Committee suggested that these characteristics create unique differences in how smaller companies achieve effective ICFR that may not be adequately accommodated in Auditing Standard No. 2 or other implementation guidance as currently applied in practice. In addition, the Advisory Committee noted serious ramifications for smaller public companies stemming from the cost of frequent documentation changes and sustained review and testing of controls perceived to be necessary to comply with the Section 404 requirements.

The Commission also granted the December 2006 extension in view of a series of actions that the Commission and the PCAOB each announced on May 17, 2006 that they intended to take to improve the implementation of the Section 404 requirements. These actions included:

- Issuance of a Concept Release soliciting comment on a variety of issues that might be included in future Commission guidance for management to assist in its performance of a top-down, risk-based assessment of ICFR;
- Consideration of additional guidance from COSO on understanding and applying the COSO framework; [56]
- Revisions to Auditing Standard No. 2;
- Reinforcement of auditor efficiency through PCAOB inspections and Commission oversight of the PCAOB's audit firm inspection program;
- Development, or facilitation of development, of implementation guidance for auditors of smaller public companies; and
- Continuation of PCAOB forums on auditing in the small business environment.

Pursuant to the most recent extension of the compliance dates, non-accelerated filers are scheduled to begin including a management report on ICFR in their annual reports filed for a fiscal year ending on or after December 15, 2007, and an auditor's report on ICFR for a fiscal year ending on or after December 15, 2008. It was our intention that non-accelerated filers would be able to complete their assessment of internal control without engaging an independent auditor during the first year. In addition, to eliminate second-guessing of management that might result from separating the management and auditor reports, the rules provide that the management report included in a non-accelerated filer's annual report during the first year of compliance is deemed to be ''furnished'' rather than ''filed.'' [57]

The December 2006 extension of the management report requirement was intended to provide the non-accelerated filers with the benefit of both the Commission's management guidance and the COSO guidance for smaller companies before planning and conducting their initial ICFR assessments. The extension of the auditor report requirement was intended to:

- Afford non-accelerated filers and their auditors the benefit of anticipated changes to the PCAOB's Auditing Standard No. 2, and any implementation guidance issued by the PCAOB for auditors of non-accelerated filers;
- Save non-accelerated filers the costs of the auditor attestation to, and report on, management's initial assessment of ICFR;
- Enable management of non-accelerated filers to more gradually prepare for full compliance with the Section 404 requirements and to gain some efficiencies in the process of reviewing and evaluating the effectiveness of ICFR before becoming subject to the requirement that the auditor report on ICFR (and to permit investors to see and evaluate the results of management's first compliance efforts); and
- Provide the Commission with the flexibility to consider any comments it received on the Concept Release and the proposed guidance for management in response to questions related to the appropriate role of the auditor in evaluating management's internal control assessment process.

On July 11, 2006, we issued a Concept Release to seek public comment on the issues to be addressed in our guidance for management on how to assess ICFR.[58] The Commission received approximately 167 comment letters in response to the Concept Release, a majority of which supported additional Commission guidance to management that is applicable to companies of all sizes and complexities. The Commission considered the feedback received in those comment letters in drafting its Interpretive Guidance.

In conjunction with issuance of the Interpretive Guidance, in this release we are adopting amendments to the existing requirements of Exchange Act Rules 13a–15(c) and 15d-15(c) that management of each company subject to the Exchange Act periodic reporting requirements evaluate, as of the end of each fiscal year, the effectiveness of the company's ICFR. The amendments state that an evaluation that complies with the Interpretive Guidance will satisfy the annual evaluation requirement in Rules 13a–15(c) and 15d–15(c).

We are also adopting amendments to Rules 1–02 and 2–02 of Regulation S–X, and Item 308 of Regulations S–B and S–K, to state that the company's auditor must express only one opinion on a company's ICFR. This is a direct opinion by the auditor on the effectiveness of the company's ICFR. Prior to the amendments, auditors expressed two separate opinions: one on the effectiveness of a company's ICFR and another on management's assessment of the effectiveness of the company's ICFR. Finally, we are adopting an amendment to Exchange Act Rule 12b–2, and a corresponding amendment to Rule 1–02 of Regulation S–X, to define the term material weakness.

V. Paperwork Reduction Act

Certain provisions of our ICFR requirements contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA''). We submitted these collections of information to the Office of Management and Budget (''OMB'') for review in accordance with the PRA and received approval for the collections of information. We do not believe the rule amendments in this release will impose any new recordkeeping or information collection requirements, or other collections of information requiring OMB's approval.

VI. Cost-Benefit Analysis

The rule amendments and the Interpretive Guidance that we are adopting are intended to facilitate more effective and efficient evaluations of ICFR by management and auditors. Rules 13a–15 and 15d–15, as initially adopted, and as amended, do not mandate any specific method for management to follow in performing an evaluation of ICFR. Instead, the rules recognize that the methods of conducting evaluations of ICFR will, and should, vary from company to company. Commenters have asserted that the lack of specific direction in

2006) (''Advisory Committee Report'') available at *http://www.sec.gov/info/smallbus/acspc/acspc-finalreport.pdf.*

[56] On July 11, 2006, COSO issued guidance entitled ''Internal Control Over Financial Reporting—Guidance for Smaller Public Companies'' that was designed primarily to help management of smaller public companies with establishing and maintaining effective ICFR.

[57] Management's report is not deemed to be filed for purposes of Section 18 of the Exchange Act [15 U.S.C. 78r] or otherwise subject to the liabilities of that section, unless the issuer specifically states that the report is to be considered ''filed'' under the Exchange Act or incorporates it by reference into a filing under the Securities Act or the Exchange Act.

[58] Release No. 34–54122 (July 11, 2006).

either Section 404 of the Sarbanes-Oxley Act or the implementing rules on how management should conduct an evaluation of ICFR may have resulted in the auditing standards becoming the *de facto* standard for management's evaluation in many cases, which likely contributed to excessive documentation and testing of internal controls by management in initial compliance efforts.

The benefits and costs to investors of the rule amendments and Interpretive Guidance are directly related to the extent to which issuers choose to rely on the Interpretive Guidance. In part, this is because compliance is voluntary. In addition, companies already subject to the reporting requirement have gained some efficiencies in the evaluation process,[59] and other sources have provided guidance on how to conduct an ICFR evaluation.[60] The very purpose of the rule amendments and the Interpretive Guidance is to ease the compliance burden created by Section 404 of the Sarbanes-Oxley Act. Because of this, and because the use of Interpretive Guidance is voluntary, it is unlikely that it could result in additional incremental cost to issuers. Issuers that choose to use Interpretive Guidance will likely do so because it reduces their overall compliance burden.

A. Benefits

Our issuance of specific Interpretive Guidance for management on how to conduct an ICFR evaluation should significantly lessen the pressures on management to look to the auditing standards for guidance as to how to conduct its evaluation.[61] To the extent that these pressures have led to excessive testing and documentation in the past, the Interpretive Guidance and rule amendments should lead management to avoid excessive costs and aid them in determining the level of effort necessary to evaluate a company's ICFR.

The extent of the benefits of the rule amendments depends on a company's experience conducting an ICFR evaluation. As explained in the release setting forth the Interpretive Guidance, the effort necessary to conduct an initial evaluation of ICFR will vary depending on management's existing financial reporting risk assessment and control monitoring activities. After the first year of compliance, management's effort to identify financial reporting risks and controls should ordinarily be less because subsequent evaluations should be more focused on changes in risks and controls rather than identification of all financial reporting risks and the related controls. Further, in each subsequent year, the documentation of risks and controls will only need to be updated from the prior year or years, not recreated anew.

Through the risk and control identification process, management will have identified for testing only those controls that are needed to meet the objective of ICFR (that is, to provide reasonable assurance regarding the reliability of financial reporting) and for which evidence about their operation can be obtained most efficiently. The nature and extent of procedures implemented to evaluate whether those controls continue to operate effectively can be tailored to the company's unique circumstances, thereby avoiding unnecessary compliance costs.

In addressing a number of the commonly identified areas of concerns, the Interpretive Guidance:

- Explains how to vary approaches for gathering evidence to support the evaluation based on risk assessments;
- Explains the use of ''daily interaction,'' self-assessment, and other on-going monitoring activities as evidence in the evaluation;
- Explains the purpose of documentation and how management has flexibility in approaches to documenting support for its assessment;
- Provides management significant flexibility in making judgments regarding what constitutes adequate evidence in low-risk areas; and
- Allows for management and the auditor to have different testing approaches.

The Interpretive Guidance is organized around two broad principles. The first principle is that management should evaluate whether it has implemented controls that adequately address the risk that a material misstatement of the financial statements would not be prevented or detected in a timely manner. The guidance describes a top-down, risk-based approach to this principle, including the role of entity-level controls in assessing financial reporting risks and the adequacy of controls. The guidance promotes efficiency by allowing management to focus on those controls that are needed to adequately address the risk of a material misstatement in its financial statements.

The second principle is that management's evaluation of evidence about the operation of its controls should be based on its assessment of risk. The guidance provides an approach for making risk-based judgments about the evidence needed for the evaluation. This allows management to align the nature and extent of its evaluation procedures with those areas of financial reporting that pose the highest risks to reliable financial reporting (that is, whether the financial statements are materially accurate). As a result, management may be able to use more efficient approaches to gathering evidence, such as self-assessments in low-risk areas, and perform more extensive testing in high-risk areas. By following these two principles, companies of all sizes and complexities will be able to implement the rules effectively and efficiently.

The Interpretive Guidance reiterates the Commission's position that management should bring its own experience and informed judgment to bear in order to design an evaluation process that meets the needs of its company and that provides a reasonable basis for its annual assessment of whether ICFR is effective. This allows management sufficient and appropriate flexibility to design such an evaluation process. Smaller public companies, which generally have less complex internal control systems than larger public companies, can scale and tailor their evaluation methods and procedures to fit their own facts and circumstances.[62] Applying the Interpretive Guidance may thus assist management of these companies in scaling and tailoring its evaluation methods and procedures to fit their own unique facts and circumstances in ways that may not be appropriate for larger companies with more complex internal control systems. Through the rule amendments, smaller companies can take advantage of the flexibility and scalability in Interpretive Guidance to conduct an evaluation of ICFR that is both efficient and effective at identifying material weaknesses.

By applying the principles set forth in the Interpretive Guidance, companies of all sizes and complexities will be able to comply with the rules more

[59] Commenters on the *Concept Release Concerning Management's Reports on Internal Control Over Financial Reporting*, Release No. 34–54122 (Jul. 11, 2006) [71 FR 40866], available at *http://www.sec.gov/rules/concept/2006/34-54122.pdf*, expressed similar views. See, for example, letters from the American Institute of Certified Public Accountants, Crowe Chizek and Company LLC, and Kreischer Miller, all available at *http://www.sec.gov/comments/s7-11-06/s71106.shtml*.

[60] See, for example, The Institute of Internal Auditor's *Sarbanes-Oxley Section 404: A Guide for Management by Internal Control Practitioners*, May 2006.

[61] We are taking this action in conjunction with the PCAOB's elimination of the auditor's requirement to evaluate the efficacy of management's evaluation process.

[62] Advisory Committee Report at pp. 39–40.

effectively and efficiently. The total benefit to investors of the Interpretive Guidance and rule amendments depends on the number of companies that implement these principles and the extent to which their practices under these principles depart from the principles and practices that they would otherwise follow.

Given that non-accelerated filers have not yet been required to conduct an evaluation of ICFR, their use of Interpretive Guidance in their first year of conducting an ICFR evaluation may enable them to avoid some of the initial compliance costs and efforts that were incurred by larger public companies during their early years of compliance with Section 404's requirements. In this respect, investors in non-accelerated filers may benefit more from the amended rules and Interpretive Guidance than investors in larger public companies that already have been required to conduct an evaluation.

The amendments to Exchange Act Rules 13a–15(c) and 15d–15(c) provide for a non-exclusive safe-harbor in that they do not require management to follow the Interpretive Guidance, but still provide assurance to management regarding its compliance obligations. Some of the commenters on the Proposal questioned the benefits of these rule amendments. As noted earlier in this release, three commenters suggested that the Interpretive Guidance does not contain specific, objective criteria that a company's management could use to demonstrate that its evaluation complies with the requirements of the Interpretive Guidance.[63] The Office of Advocacy of the Small Business Administration also stated in its comment letter that some of the participants in a roundtable it hosted on the Section 404 requirements asked for more details as to how the safe harbor protection could be claimed and what type of liability protection it would afford.

The rule amendments are intended to provide those choosing to follow the Interpretive Guidance with greater clarity and transparency about their obligations relative to Section 404. For example, the amendments to Exchange Act Rules 13a–15(c) and 15d–15(c) add a specific reference to the Interpretive Guidance in the rules and thereby make the guidance more visible and accessible to the managers of companies subject to the ICFR evaluation requirement. When a company's management relies on the Interpretive Guidance to conduct its evaluation, the company does not have to take any special action to ''claim'' the assurance provided by the rule amendments. In addition, the transparency of the guidance may benefit investors by reducing costly second-guessing about the sufficiency of management's evaluation raised by any party, including the company's independent auditor. The Interpretive Guidance is specific enough to enable a company to demonstrate that its management followed the principles set forth in the Interpretive Guidance in conducting its ICFR evaluation to gain the assurance afforded by these rule amendments.

The rule amendments encourage the use of the Interpretive Guidance because it advises management to focus on the controls that address the highest risk of material misstatement. This will benefit investors by reducing the amount of testing and documentation conducted by management and thus reducing the cost of compliance.[64] The rule amendments can remove obstacles by giving management clearer information about its obligations and by reducing undue pressures from auditors.

The Commission did not receive any comments on the dollar magnitude of the likely reduction in compliance costs from the rule amendments in connection with the Proposal. However, the Commission did receive historical estimates of total Section 404 compliance costs from the early years of adoption. These estimates were obtained from surveys of companies with a public float above $75 million in connection with our May 2006 Roundtable on Internal Control Reporting and Auditing Provisions. These historical estimates of the early compliance costs incurred by the relatively larger companies ranged from $860,000 to $5.4 million per company, depending on the survey.[65] The management cost that is the focus of the rule amendments appears to account for the majority of this estimate. One commenter indicated in its comment letter on the Proposal that it is especially important to reduce management costs, as these costs are the most significant costs associated with the Section 404 requirements, and can account for 70–75% of the total compliance costs.[66] Thus, even if the percentage decline in compliance cost under the rule amendment is small, companies and their investors could experience a substantial dollar benefit in terms of lower costs of compliance.

Commenters expressed the view that the rule amendments and Interpretive Guidance will result in more efficient and effective evaluations of internal control relative to what would otherwise occur. In commenting on the amendments, one commenter provided a quantitative estimate of the expected reduction in compliance costs. This commenter estimated that implementation of the Proposed Interpretive Guidance could result in a reduction in company compliance costs of approximately 10% in the first year of implementation (net of first year costs of implementation of the Interpretive Guidance). The commenter further estimated that implementation could result in an additional 15–20% cost reduction over costs incurred in the initial compliance year based on its own experience in conducting an evaluation of internal control and its assessment of the potential efficiencies to be gained from the Interpretive Guidance.[67] The available qualitative and quantitative evidence is consistent with our view that issuers will implement the Interpretive Guidance to the benefit of investors.[68]

We anticipate that the amendments to Exchange Act Rule 12b–2 and Rule 1–02 of Regulation S–X to define the term ''material weakness'' will benefit companies and investors. Companies will now be able to refer to the definition in the Commission rules requiring management to conduct an ICFR evaluation, rather than having to refer to the definition in the audit standard. We believe that the definition appropriately describes the ICFR conditions that, if they exist, should be disclosed to investors and preclude a conclusion that ICFR is effective.

Commenters suggested that the rule amendments and Proposed Interpretive Guidance will not significantly reduce costs as long as there are significant differences between our management guidance and the Proposed Auditing

[63] See, for example, letters from Cleary, NYC Bar, and Reznick Group, P.C.

[64] Commenters expressed similar views. See, for example, letters from BHP, Employees' Retirement System of Rhode Island, Financial Services Forum, KPMG LLP, McGladrey & Pullen LLP, MSFT, and State Street Corporation.

[65] See, for example, Financial Executives International Survey on Sarbanes-Oxley Section 404 Implementation (March, 2006) and CRA International Sarbanes-Oxley Section 404 Costs and Implementation Issues: Spring 2006 Survey Update.

[66] See letter from The Committee on Capital Markets Regulation.

[67] See letter from CSC.

[68] Commenters, however, requested that we conduct an analysis of the costs and benefits of the amendments after implementation and assess whether the amendments and the Interpretive Guidance result in cost reductions. See, for example, letters from Biotechnology Industry Organization (BIO) and NVCA. We are sensitive to the costs and benefits of our Section 404 rules, and we intend to monitor the impact of the rule amendments and Interpretive Guidance.

Standard.[69] To address these comments and enhance the benefit of the rule amendments, we coordinated with the PCAOB to align our Interpretive Guidance and the PCAOB's new auditing standard.

B. Costs

As stated above, the obligation for all companies, regardless of size, to comply with the ICFR requirements was established in 2002 when Congress directed the Commission to adopt rules to implement Section 404. The rule amendments and Interpretive Guidance are designed to reduce the burden of compliance with those requirements. The rule amendments and Interpretive Guidance do not impose any new compliance obligations on any reporting company. Because compliance with the Interpretive Guidance is voluntary, it is likely that companies and their management will choose to comply with the guidance only if they determine that the benefits exceed the costs.

Companies that have already completed one or more evaluations may choose to continue to use their existing procedures if they are satisfied with the effectiveness and efficiency of those procedures. Alternatively, a company that already has been complying with the ICFR requirements could choose to follow the Interpretive Guidance and to make adjustments to conform its evaluation procedures to the guidance. In that case, some commenters expressed the view that while changing from the current evaluation approaches to the top-down, risk-based approach laid out in the Interpretive Guidance could result in short-term cost increases, it would promote a cost-effective approach in the long-term.[70] It is reasonable to conclude that companies will not elect to follow the Interpretive Guidance if, from a cost standpoint, they determine that is not in their long-term interest to do so.

For smaller public companies that have not been required to comply with the ICFR requirements, the costs that they will incur are a direct result of the imposition by the Congress of the statutory requirements of Section 404 of the Sarbanes-Oxley Act on them. They may be able to reduce their first-time evaluation costs by using the Interpretive Guidance as compared to what those costs would have been.

The Interpretive Guidance advises management on how to conduct an efficient evaluation of ICFR, which could result in management doing less work, and therefore produce cost savings for the company. Those cost savings, however, could be offset if a company's auditor does not choose to use management's work to the same extent it did before, due to management choosing to follow the Interpretive Guidance and doing less work as a result.[71] Because use of the Interpretive Guidance is voluntary, it is reasonable to conclude that management would choose to reduce the extent and cost of its work only to the degree that it did not result in an increase in the overall costs of complying with Section 404, including auditor costs.[72] On the other hand, the rule amendments and Interpretive Guidance could increase the possibility that the auditor will, during the Section 404 audit, perform additional testing of internal controls beyond that which management performed in reliance on the Interpretive Guidance.[73]

VII. Effect on Efficiency, Competition and Capital Formation

Section 3(f) of the Exchange Act[74] requires the Commission, whenever it engages in rulemaking and is required to consider or determine if an action is necessary or appropriate in the public interest, also to consider whether the action will promote efficiency, competition, and capital formation. Section 23(a)(2) of the Exchange Act[75] also requires the Commission, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The rule amendments and Interpretive Guidance will promote efficiency, and capital formation. The Interpretive Guidance and related rule amendments promote efficiency by allowing management to focus on those controls that are needed to adequately address the risk of a material misstatement of the company's financial statements. The guidance does not require management to identify every control in a process or to document the business practices affecting ICFR. Rather, management can focus its evaluation process and the documentation supporting the assessment on those controls that it determines adequately address the risk of a material misstatement of the financial statements.

One commenter expressed the view that the Section 404 requirements have provided significant benefits to investors and business by increasing the reliability of financial statements, strengthening internal controls, improving the efficiency of business operations and helping to reduce the risk of fraud.[76] To the extent that the rule amendments and Interpretive Guidance make the management evaluation process more efficient, these benefits can all be retained at a lower cost.

Under the Sarbanes-Oxley Act, all companies, except registered investment companies, are subject to the requirement to conduct an evaluation of their ICFR. Compliance with the amendments to Exchange Act Rules 13a–15 and 15d–15 and Interpretive Guidance, however, will be voluntary rather than mandatory and, as such, companies will be able to choose whether or not to follow the Interpretive Guidance. The amendments therefore will not impose any costs on companies that they do not choose to incur. Presumably, companies will only choose to rely on the Interpretive Guidance if they think that the benefits of using the guidance outweigh the costs.

The rule amendments will encourage use of the Interpretive Guidance and thereby increase the efficiency with respect to the effort and resources associated with an evaluation of internal control over financial reporting and facilitate more efficient allocation of resources within a company. The guidance is designed to be scalable depending on the size of the company, which should reduce the potential for internal control reporting requirements to impose a higher cost burden on smaller companies relative to revenues.

Capital formation may be promoted to the extent the cost of compliance with the evaluation requirement is lowered. Smaller private companies may be able to access public capital markets earlier in their growth and at lower cost.

We do not believe the rule amendments or the Interpretive Guidance will impact competition. One commenter was concerned that the Interpretive Guidance could become the

[69] See, for example, letters from Allstate Corporation, Hudson, ICAEW, Minn-Dak Farmers Cooperative, Nasdaq, Supervalu Inc., and UnumProvident.

[70] See, for example, letters from Ace Limited, Hutchinson, and Neenah.

[71] See, for example, letters from Heritage Financial Corporation, MSFT and Neenah.

[72] This cost-benefit analysis does not address the costs associated with the ICFR audit standard itself because the rule amendments do not affect the ICFR audit standard.

[73] See letter from UnumProvident.

[74] 15 U.S.C. 78c(f).

[75] 15 U.S.C. 78w(a)(2).

[76] See letter from The Committee on Capital Market Regulation.

exclusive method by which companies would conduct an evaluation of ICFR over time, and could discourage the development of future alternative evaluation frameworks.[77] However, the rules explicitly acknowledge that there are many different ways to conduct an evaluation and the Interpretive Guidance is not exclusive.

VIII. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis (''FRFA'') has been prepared in accordance with the Regulatory Flexibility Act.[78] This FRFA relates to amendments to Exchange Act Rules 13a–15(c), 15d–15(c), and 12b–2, Rules 1–02 and 2–02 of Regulation S–X, and Item 308 of Regulations S–B and S–K. These rules require the management of an Exchange Act reporting company, other than a registered investment company, to evaluate, as of the company's fiscal year-end, the effectiveness of the company's ICFR. Furthermore, these rules also require the public accounting firm that issues an audit report on the company's financial statements to attest to, and report on, management's assessment of the company's ICFR. We are amending these rules to: (1) Provide companies with the assurance that an evaluation that complies with our Interpretive Guidance will satisfy the annual management ICFR evaluation requirement; (2) require a company's auditor to express only one opinion on the effectiveness of the company's ICFR; and (3) define the term ''material weakness.'' An Initial Regulatory Flexibility Analysis was prepared in accordance with the Regulatory Flexibility Act and included in the release proposing these amendments.[79] The Proposing Release solicited comments on this analysis.

A. Need for the Amendments

The amendments are designed to facilitate more effective and efficient evaluations of ICFR by sanctioning the Interpretive Guidance as a method that can be used by management to conduct an ICFR evaluation. Companies already have a legal obligation to establish and maintain an adequate system of ICFR and to evaluate and report annually on those financial reporting controls. Our current rules do not prescribe a method or set of procedures for management to follow in performing an evaluation of ICFR. Commenters have asserted that the lack of direction in either Section 404 of the Sarbanes-Oxley Act or implementing rules on conducting this type of evaluation has led many companies to look to auditing standards as a guide to conducting the evaluation. This has likely contributed to excessive documentation and testing of ICFR.

While the rule amendments and Interpretive Guidance are designed to make ICFR evaluations by management more cost-effective for all reporting companies subject to the Section 404 requirements, they will be particularly useful to smaller public companies that have a public float below $75 million. These companies have not yet been required to comply with the Section 404 requirements. The rule amendments and Interpretive Guidance will encourage managements of smaller companies to scale and tailor their evaluation methods and procedures to fit their companies' own particular facts and circumstances.

B. Significant Issues Raised by Public Comments

In the Proposing Release, we requested comment on any aspect of the IRFA, including the number of small entities that would be affected by the proposed amendments, and the quantitative and qualitative nature of the impact. Commenters addressed several aspects of the proposed rule amendments and the Proposed Interpretive Guidance that could potentially affect small entities. They expressed concern that the proposed amendments would not provide certainty for management because the Proposed Interpretive Guidance was too vague, did not provide adequate guidance for small companies to scale their evaluation procedures, and was inconsistent with several aspects of the PCAOB's Proposed Auditing Standard.[80]

In response to these comments, including comments submitted by the Office of Advocacy of the Small Business Administration, we have coordinated with the PCAOB to harmonize the Interpretive Guidance and rule amendments with the proposed new auditing standard. We also have made revisions to our Proposed Interpretive Guidance to add clarity while still maintaining a principles-based approach. Other comments that we received are discussed below.

Smaller public companies and their investors could realize benefits from the rule amendments that, measured in proportion to their revenues, are greater than the benefits that would accrue to larger companies and their investors. This is because, as commenters on the Proposal and on previous Commission releases related to the Section 404 requirements pointed out, the burden of internal control reporting compliance costs is ''disproportionately high'' for smaller public companies compared to larger ones.[81] To the extent that Interpretive Guidance and the rule amendments reduce the cost of compliance with the requirements of Section 404, these cost savings will be disproportionately greater for smaller public companies and their investors.[82]

C. Small Entities Subject to the Final Amendments

The amendments will affect some issuers that are ''small entities.'' Exchange Act Rule 0–10(a)[83] defines an issuer, other than an investment company, to be a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. We estimate that there are approximately 1,110 issuers, other than investment companies, that may be considered small entities. The amendments will apply to any small entity, other than a registered investment company, that is subject to Exchange Act reporting requirements.

Overall, approximately 6,000 smaller public companies that are subject to the Exchange Act reporting requirements, but have a public float below $75 million, will be required to comply with these requirements for the first time in their annual reports for fiscal years ending on or after December 15, 2007. The Interpretive Guidance and rule amendments are intended to reduce the cost of compliance for these companies. Overall, more than half of the reporting companies subject to the Section 404 requirements are smaller public companies that should benefit from the rule amendments and Interpretive Guidance.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The rule amendments and Interpretive Guidance are designed to alleviate reporting and compliance burdens. They do not impose any new

[77] See letter from NYC Bar.

[78] 5 U.S.C. 601.

[79] 5 U.S.C. 603.

[80] See, for example, letters from AeA, BIO, IMA and U.S. Small Business Administration's Office of Advocacy (SBA).

[81] See, for example, the letter from the Office of Advocacy of the Small Business Administration, citing the Advisory Committee Report at p. 33.

[82] Nearly 5,000 companies already are subject to the Section 404 requirements. Larger companies may also be able to perform more efficient ICFR evaluations based on the Interpretive Guidance, and gain assurance that changes they make in their evaluation procedures still comply with Commission rules.

[83] 17 CFR 240.0–10(a).

reporting, recordkeeping or compliance requirements on small entities. The amendments are designed to make compliance with existing requirements more efficient. Many factors contribute to the cost of compliance, including the size and complexity of the company and the rigor of its controls. The degree to which the rule amendments will reduce compliance costs will depend on these factors and on the company's prior experience and access to information about alternative methods of compliance with the Section 404 requirements. Therefore, it is difficult to quantify the benefits of the amendments for small entities.

E. Agency Action To Minimize Effect on Small Entities

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the rule amendments and Interpretive Guidance, we considered alternatives, including establishing different compliance or reporting requirements that take into account the resources available to small entities, clarifying or simplifying compliance and reporting requirements under the rules for small entities, using design rather than performance standards, and exempting small entities from all or part of the Interpretive Guidance and rule amendments.

Regarding the first alternative, the Commission has effectively established different compliance requirements for smaller entities by making the Interpretive Guidance scalable in order to take into account the resources available to smaller public companies, including those that are small entities. Regarding the second alternative, the Interpretive Guidance and rule amendments clarify and simplify the Section 404 reporting requirements for all reporting companies, including small entities. The final rules create a principles-based set of guidelines for management that will produce more effective and efficient evaluations of ICFR for small entities, as well as other reporting companies subject to the Section 404 requirements.

The Interpretive Guidance describes a top-down, risk-based approach to evaluating ICFR. It promotes efficiency for companies of all sizes by allowing management to focus its efforts on those controls that are needed to adequately address the risk of a material misstatement in a company's financial statements.

Regarding the third alternative, the rule amendments and Interpretive Guidance set forth primarily performance rather than design standards, in particular to aid the management of non-accelerated filers (including small entities) in conducting an evaluation of ICFR. The amendments provide assurance that compliance with the Interpretive Guidance will satisfy the management evaluation requirement in Exchange Act Rules 13a–15 and 15d–15. The rule amendments and Interpretive Guidance afford companies choosing to follow the Interpretive Guidance considerable flexibility to scale and tailor their evaluation methods to fit the particular circumstances of the company. This flexibility is especially beneficial to non-accelerated filers (including small entities).

For example, in many smaller companies senior management is more involved in the day-to-day operations of the company. The Interpretive Guidance describes how management's daily interaction, as well as other forms of on-going monitoring activities, can provide evidence in the evaluation process. This flexibility should enable smaller companies to keep costs of compliance with the management evaluation requirement as low as possible.

The rule amendments explicitly state that a company's management does not need to comply with the Interpretive Guidance. The amendments provide assurance, however, to a company choosing to follow the guidance that it has satisfied management's obligation to conduct an evaluation of internal control in an appropriate manner. Small entities should be able to reduce the amount of testing and documentation by relying on the Interpretive Guidance rather than auditing standards to plan and conduct their evaluations of ICFR.

Regarding the final alternative, we believe that an exclusion of small entities from the Interpretive Guidance and the rule amendments would discourage small entities from using the principles-based Interpretive Guidance and would be inconsistent with our goal of developing a more effective and flexible ICFR evaluation process that is scaled and tailored to meet the small entity's particular circumstances.

IX. Statutory Authority and Text of Rule Amendments

The amendments described in this release are being adopted under the authority set forth in Sections 12, 13, 15, 23 of the Exchange Act, and Sections 3(a) and 404 of the Sarbanes-Oxley Act.

List of Subjects

17 CFR Part 210

Accountants, Accounting, Reporting and recordkeeping requirements, Securities.

17 CFR Parts 228, 229 and 240

Reporting and recordkeeping requirements, Securities.

Text of Amendments

■ For the reasons set out in the preamble, the Commission amends title 17, chapter II, of the Code of Federal Regulations as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 78c, 78j–1, 78*l*, 78m, 78n, 78o(d), 78q, 78u–5, 78w(a), 78*ll*, 78mm, 80a–8, 80a–20, 80a–29, 80a–30, 80a–31, 80a–37(a), 80b–3, 80b–11, 7202 and 7262, unless otherwise noted.

■ 2. Amend § 210.1–02 by:

■ a. revising paragraph (a)(2);

■ b. redesignating paragraphs (p) through (bb) as paragraphs (q) through (cc); and

■ c. adding new paragraph (p).

The revision and additions read as follows:

§ 210.1–02 Definition of terms used in Regulation S–X (17 CFR part 210).

* * * * *

(a) * * *

(2) *Attestation report on internal control over financial reporting.* The term *attestation report on internal control over financial reporting* means a report in which a registered public accounting firm expresses an opinion, either unqualified or adverse, as to whether the registrant maintained, in all material respects, effective internal control over financial reporting (as defined in § 240.13a–15(f) or 240.15d–15(f) of this chapter), except in the rare circumstance of a scope limitation that cannot be overcome by the registrant or the registered public accounting firm which would result in the accounting firm disclaiming an opinion.

* * * * *

(p) *Material weakness.* The term *material weakness* is a deficiency, or a

combination of deficiencies, in internal control over financial reporting (as defined in § 240.13a–15(f) or 240.15d–15(f) of this chapter) such that there is a reasonable possibility that a material misstatement of the registrant's annual or interim financial statements will not be prevented or detected on a timely basis.

* * * * *

■ 3. Amend § 210.2–02 by revising paragraph (f) to read as follows:

§ 210.2–02 Accountants' reports and attestation reports.

* * * * *

(f) *Attestation report on internal control over financial reporting.* Every registered public accounting firm that issues or prepares an accountant's report for a registrant, other than an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8), that is included in an annual report required by section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) containing an assessment by management of the effectiveness of the registrant's internal control over financial reporting must clearly state the opinion of the accountant, either unqualified or adverse, as to whether the registrant maintained, in all material respects, effective internal control over financial reporting, except in the rare circumstance of a scope limitation that cannot be overcome by the registrant or the registered public accounting firm which would result in the accounting firm disclaiming an opinion. The attestation report on internal control over financial reporting shall be dated, signed manually, identify the period covered by the report and indicate that the accountant has audited the effectiveness of internal control over financial reporting. The attestation report on internal control over financial reporting may be separate from the accountant's report.

* * * * *

■ 4. Amend § 210.2–02T by revising the section heading to read as follows:

§ 210.2–02T Accountants' reports and attestation reports on internal control over financial reporting.

* * * * *

PART 228—INTEGRATED DISCLOSURE FOR SMALL BUSINESS ISSUERS

■ 5. The authority citation for part 228 continues to read, in part, as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78l, 78m, 78n, 78o, 78u–5, 78w, 78ll, 78mm, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, and 7201 *et seq.;* and 18 U.S.C. 1350.

* * * * *

■ 6. Amend § 228.308 by revising paragraphs (a)(4) and (b) to read as follows:

§ 228.308 (Item 308) Internal control over financial reporting.

(a) * * *

(4) A statement that the registered public accounting firm that audited the financial statements included in the annual report containing the disclosure required by this Item has issued an attestation report on the small business issuer's internal control over financial reporting.

(b) *Attestation report of the registered public accounting firm.* Provide the registered public accounting firm's attestation report on the small business issuer's internal control over financial reporting in the small business issuer's annual report containing the disclosure required by this Item.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 7. The authority citation for part 229 continues to read, in part, as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 8. Amend § 229.308 by revising paragraphs (a)(4) and (b) to read as follows:

§ 229.308 (Item 308) Internal control over financial reporting.

(a) * * *

(4) A statement that the registered public accounting firm that audited the financial statements included in the annual report containing the disclosure required by this Item has issued an attestation report on the registrant's internal control over financial reporting.

(b) *Attestation report of the registered public accounting firm.* Provide the registered public accounting firm's attestation report on the registrant's internal control over financial reporting in the registrant's annual report containing the disclosure required by this Item.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 9. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*, and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 10. Amend § 240.12b–2 by adding the definition of ''Material weakness'' in alphabetical order to read as follows:

§ 240.12b–2 Definitions.

* * * * *

Material weakness. The term *material weakness* is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the registrant's annual or interim financial statements will not be prevented or detected on a timely basis.

* * * * *

■ 11. Amend § 240.13a–15 by revising paragraph (c) to read as follows:

§ 240.13a–15 Controls and procedures.

* * * * *

(c) The management of each such issuer, that either had been required to file an annual report pursuant to section 13(a) or 15(d) of the Act (15 U.S.C. 78m(a) or 78o(d)) for the prior fiscal year or previously had filed an annual report with the Commission for the prior fiscal year, other than an investment company registered under section 8 of the Investment Company Act of 1940, must evaluate, with the participation of the issuer's principal executive and principal financial officers, or persons performing similar functions, the effectiveness, as of the end of each fiscal year, of the issuer's internal control over financial reporting. The framework on which management's evaluation of the issuer's internal control over financial reporting is based must be a suitable, recognized control framework that is established by a body or group that has followed due-process procedures, including the broad distribution of the framework for public comment. Although there are many different ways to conduct an evaluation of the effectiveness of internal control over financial reporting to meet the

requirements of this paragraph, an evaluation that is conducted in accordance with the interpretive guidance issued by the Commission in Release No. 34–55929 will satisfy the evaluation required by this paragraph.

* * * * *

■ 12. Amend § 240.15d–15 by revising paragraph (c) to read as follows:

§ 240.15d–15 Controls and procedures.

* * * * *

(c) The management of each such issuer, that either had been required to file an annual report pursuant to section 13(a) or 15(d) of the Act (15 U.S.C. 78m(a) or 78o(d)) for the prior fiscal year or previously had filed an annual report with the Commission for the prior fiscal year, other than an investment company registered under section 8 of the Investment Company Act of 1940, must evaluate, with the participation of the issuer's principal executive and principal financial officers, or persons performing similar functions, the effectiveness, as of the end of each fiscal year, of the issuer's internal control over financial reporting. The framework on which management's evaluation of the issuer's internal control over financial reporting is based must be a suitable, recognized control framework that is established by a body or group that has followed due-process procedures, including the broad distribution of the framework for public comment. Although there are many different ways to conduct an evaluation of the effectiveness of internal control over financial reporting to meet the requirements of this paragraph, an evaluation that is conducted in accordance with the interpretive guidance issued by the Commission in Release No. 34–55929 will satisfy the evaluation required by this paragraph.

* * * * *

By the Commission.

Dated: June 20, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–12298 Filed 6–26–07; 8:45 am]

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Wednesday,
June 27, 2007

Part III

Securities and Exchange Commission

17 CFR Part 241

Commission Guidance Regarding Management's Report on Internal Control Over Financial Reporting Under Section 13(a) or 15(d) of the Securities Exchange Act of 1934; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release Nos. 33–8810; 34–55929; FR–77; File No. S7–24–06]

Commission Guidance Regarding Management's Report on Internal Control Over Financial Reporting Under Section 13(a) or 15(d) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The SEC is publishing this interpretive release to provide guidance for management regarding its evaluation and assessment of internal control over financial reporting. The guidance sets forth an approach by which management can conduct a top-down, risk-based evaluation of internal control over financial reporting. An evaluation that complies with this interpretive guidance is one way to satisfy the evaluation requirements of Rules 13a–15(c) and 15d–15(c) under the Securities Exchange Act of 1934.

DATES: *Effective Date:* June 27, 2007.

FOR FURTHER INFORMATION CONTACT: Josh K. Jones, Professional Accounting Fellow, Office of the Chief Accountant, at (202) 551–5300, or N. Sean Harrison, Special Counsel, Division of Corporation Finance, at (202) 551–3430, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The amendments to Rules 13a–15(c) [1] and 15d–15(c) [2] under the Securities Exchange Act of 1934 [3] (the ''Exchange Act''), which clarify that an evaluation of internal control over financial reporting that complies with this interpretive guidance is one way to satisfy those rules, are being made in a separate release.[4]

I. Introduction

Management is responsible for maintaining a system of internal control over financial reporting (''ICFR'') that provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. The rules we adopted in June 2003 to implement Section 404 of the Sarbanes-Oxley Act of 2002 [5] (''Sarbanes-Oxley'') require management to annually evaluate whether ICFR is effective at providing reasonable assurance and to disclose its assessment to investors.[6] Management is responsible for maintaining evidential matter, including documentation, to provide reasonable support for its assessment. This evidence will also allow a third party, such as the company's external auditor, to consider the work performed by management.

ICFR cannot provide absolute assurance due to its inherent limitations; it is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. ICFR also can be circumvented by collusion or improper management override. Because of such limitations, ICFR cannot prevent or detect all misstatements, whether unintentional errors or fraud. However, these inherent limitations are known features of the financial reporting process, therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

The ''reasonable assurance'' referred to in the Commission's implementing rules relates to similar language in the Foreign Corrupt Practices Act of 1977 (''FCPA'').[7] Exchange Act Section 13(b)(7) defines ''reasonable assurance'' and ''reasonable detail'' as ''such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.'' [8] The Commission has long held that ''reasonableness'' is not an ''absolute standard of exactitude for corporate records.'' [9] In addition, the Commission recognizes that while ''reasonableness'' is an objective standard, there is a range of judgments that an issuer might make as to what is ''reasonable'' in implementing Section 404 and the Commission's rules. Thus, the terms ''reasonable,'' ''reasonably,'' and ''reasonableness'' in the context of Section 404 implementation do not imply a single conclusion or methodology, but encompass the full range of appropriate potential conduct, conclusions or methodologies upon which an issuer may reasonably base its decisions.

Since companies first began complying in 2004, the Commission has received significant feedback on our rules implementing Section 404.[10] This feedback included requests for further guidance to assist company management in complying with our ICFR evaluation and disclosure requirements. This guidance is in response to those requests and reflects the significant feedback we have received, including comments on the interpretive guidance we proposed on December 20, 2006. In addressing a number of the commonly identified areas of concerns, the interpretive guidance:

- Explains how to vary evaluation approaches for gathering evidence based on risk assessments;
- Explains the use of ''daily interaction,'' self-assessment, and other on-going monitoring activities as evidence in the evaluation;
- Explains the purpose of documentation and how management has flexibility in approaches to documenting support for its assessment;
- Provides management significant flexibility in making judgments regarding what constitutes adequate evidence in low-risk areas; and
- Allows for management and the auditor to have different testing approaches.

The Interpretive Guidance is organized around two broad principles. The first principle is that management should evaluate whether it has implemented controls that adequately address the risk that a material misstatement of the financial statements would not be prevented or detected in a timely manner. The guidance describes a top-down, risk-based approach to this principle, including the role of entity-level controls in assessing financial reporting risks and the adequacy of controls. The guidance promotes efficiency by allowing management to focus on those controls that are needed to adequately address the risk of a material misstatement of its financial statements. The guidance does not require management to identify every control in a process or document the business processes impacting ICFR. Rather, management can focus its

[1] 17 CFR 240.13a–15(c).

[2] 17 CFR 240.15d–15(c).

[3] 15 U.S.C. 78a *et seq.*

[4] Release No. 34–55928 (Jun. 20, 2007).

[5] 15 U.S.C. 7262.

[6] Release No. 33–8238 (Jun. 5, 2003) [68 FR 36636] (hereinafter ''Adopting Release'').

[7] Title 1 of Pub. L. 95–213 (1977).

[8] 15 U.S.C. 78m(b)(7). The conference committee report on the 1988 amendments to the FCPA also noted that the standard ''does not connote an unrealistic degree of exactitude or precision. The concept of reasonableness of necessity contemplates the weighing of a number of relevant factors, including the costs of compliance.'' Cong. Rec. H2116 (daily ed. Apr. 20, 1988).

[9] Release No. 34–17500 (Jan. 29, 1981) [46 FR 11544].

[10] Release Nos. 33–8762; 34–54976 (Dec. 20, 2006) [71 FR 77635] (hereinafter ''Proposing Release''). For a detailed history of the implementation of Section 404 of Sarbanes-Oxley, see Section I., *Background*, of the Proposing Release. An analysis of the comments we received on the Proposing Release is included in Section III of this release.

evaluation process and the documentation supporting the assessment on those controls that it determines adequately address the risk of a material misstatement of the financial statements. For example, if management determines that a risk of a material misstatement is adequately addressed by an entity-level control, no further evaluation of other controls is required.

The second principle is that management's evaluation of evidence about the operation of its controls should be based on its assessment of risk. The guidance provides an approach for making risk-based judgments about the evidence needed for the evaluation. This allows management to align the nature and extent of its evaluation procedures with those areas of financial reporting that pose the highest risks to reliable financial reporting (that is, whether the financial statements are materially accurate). As a result, management may be able to use more efficient approaches to gathering evidence, such as self-assessments, in low-risk areas and perform more extensive testing in high-risk areas. By following these two principles, we believe companies of all sizes and complexities will be able to implement our rules effectively and efficiently.

The Interpretive Guidance reiterates the Commission's position that management should bring its own experience and informed judgment to bear in order to design an evaluation process that meets the needs of its company and that provides a reasonable basis for its annual assessment of whether ICFR is effective. This allows management sufficient and appropriate flexibility to design such an evaluation process.[11] Smaller public companies, which generally have less complex internal control systems than larger public companies, can use this guidance to scale and tailor their evaluation methods and procedures to fit their own facts and circumstances. We encourage smaller public companies[12] to take advantage of the flexibility and scalability to conduct an evaluation of ICFR that is both efficient and effective at identifying material weaknesses.

The effort necessary to conduct an initial evaluation of ICFR will vary among companies, partly because this effort will depend on management's existing financial reporting risk assessment and control monitoring activities. After the first year of compliance, management's effort to identify financial reporting risks and controls should ordinarily be less, because subsequent evaluations should be more focused on changes in risks and controls rather than identification of all financial reporting risks and the related controls. Further, in each subsequent year, the documentation of risks and controls will only need to be updated from the prior year(s), not recreated anew. Through the risk and control identification process, management will have identified for testing only those controls that are needed to meet the objective of ICFR (that is, to provide reasonable assurance regarding the reliability of financial reporting) and for which evidence about their operation can be obtained most efficiently. The nature and extent of procedures implemented to evaluate whether those controls continue to operate effectively can be tailored to the company's unique circumstances, thereby avoiding unnecessary compliance costs.

The guidance assumes management has established and maintains a system of internal accounting controls as required by the FCPA. Further, it is not intended to explain how management should design its ICFR to comply with the control framework management has chosen. To allow appropriate flexibility, the guidance does not provide a checklist of steps management should perform in completing its evaluation.

The guidance in this release shall be effective immediately upon its publication in the **Federal Register**.[13]

As a companion[14] to this interpretive release, we are adopting amendments to Exchange Act Rules 13a–15(c) and 15d–15(c) and revisions to Regulation S–X.[15] The amendments to Rules 13a–15(c) and 15d–15(c) will make it clear that an evaluation that is conducted in accordance with this interpretive guidance is one way to satisfy the annual management evaluation requirement in those rules. We are also amending our rules to define the term ''material weakness'' and to revise the requirements regarding the auditor's attestation report on ICFR. Additionally, we are seeking additional comment on the definition of the term ''significant deficiency.''[16]

II. Interpretive Guidance—Evaluation and Assessment of Internal Control Over Financial Reporting

The interpretive guidance addresses the following topics:

A. The Evaluation Process
  1. Identifying Financial Reporting Risks and Controls
  a. Identifying Financial Reporting Risks
  b. Identifying Controls That Adequately Address Financial Reporting Risks
  c. Consideration of Entity-Level Controls
  d. Role of Information Technology General Controls
  e. Evidential Matter To Support the Assessment
  2. Evaluating Evidence of the Operating Effectiveness of ICFR
  a. Determining the Evidence Needed To Support the Assessment
  b. Implementing Procedures To Evaluate Evidence of the Operation of ICFR
  c. Evidential Matter To Support the Assessment
  3. Multiple Location Considerations
B. Reporting Considerations
  1. Evaluation of Control Deficiencies
  2. Expression of Assessment of Effectiveness of ICFR by Management
  3. Disclosures About Material Weaknesses
  4. Impact of a Restatement of Previously Issued Financial Statements on Management's Report on ICFR
  5. Inability To Assess Certain Aspects of ICFR

A. The Evaluation Process

The objective of internal control over financial reporting[17] (''ICFR'') is to

[11] Exchange Act Rules 13a–15 and 15d–15 [17 CFR 240.13a–15 and 15d–15] require management to evaluate the effectiveness of ICFR as of the end of the fiscal year. For purposes of this document, the term ''evaluation'' or ''evaluation process'' refers to the methods and procedures that management implements to comply with these rules. The term ''assessment'' is used in this document to describe the disclosure required by Item 308 of Regulations S–B and S–K [17 CFR 228.308 and 229.308]. This disclosure must include discussion of any material weaknesses which exist as of the end of the most recent fiscal year and management's assessment of the effectiveness of ICFR, including a statement as to whether or not ICFR is effective. Management is not permitted to conclude that ICFR is effective if there are one or more material weaknesses in ICFR.

[12] While a company's individual facts and circumstances should be considered in determining whether a company is a smaller public company and the resulting implications to management's evaluation, a company's public market capitalization and annual revenues are useful indicators of its size and complexity. The *Final Report of the Advisory Committee on Smaller Public Companies to the United States Securities and Exchange Commission* (Apr. 23, 2006), available at *http://www.sec.gov/info/smallbus/acspc/acspc-finalreport.pdf,* defined smaller companies, which included microcap companies, and the SEC's rules include size characteristics for ''accelerated filers'' and ''non-accelerated filers'' which approximately fit the same definitions.

[13] The Commission finds good cause under 5 U.S.C. 808(2) for this interpretation to take effect on the date of **Federal Register** publication. Further delay would be unnecessary and contrary to the public interest because following the guidance is voluntary. Additionally, delay may deter companies from realizing all the efficiencies intended by this guidance, and immediate effectiveness will assist in preparing for 2007 evaluations and assessments of internal control over financial reporting.

[14] Release No. 34–55928.

[15] 17 CFR 210.1–01 *et seq.*

[16] Release No. 34–55930 (Jun. 20, 2007).

[17] Exchange Act Rules 13a–15(f) and 15d–15(f) [17 CFR 240.13a–15(f) and 15d–15(b)] define internal control over financial reporting as:

Continued

provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles (''GAAP''). The purpose of the evaluation of ICFR is to provide management with a reasonable basis for its annual assessment as to whether any material weaknesses [18] in ICFR exist as of the end of the fiscal year.[19] To accomplish this, management identifies the risks to reliable financial reporting, evaluates whether controls exist to address those risks, and evaluates evidence about the operation of the controls included in the evaluation based on its assessment of risk.[20] The evaluation process will vary from company to company; however, the top-down, risk-based approach which is described in this guidance will typically be the most efficient and effective way to conduct the evaluation.

The evaluation process guidance is described in two sections. The first section explains the identification of financial reporting risks and the evaluation of whether the controls management has implemented adequately address those risks. The second section explains an approach for making judgments about the methods and procedures for evaluating whether the operation of ICFR is effective. Both sections explain how entity-level controls [21] impact the evaluation process, as well as how management should focus its evaluation efforts on the highest risks to reliable financial reporting.[22]

Under the Commission's rules, management's annual assessment of the effectiveness of ICFR must be made in accordance with a suitable control framework's [23] definition of effective internal control.[24] These control frameworks define elements of internal control that are expected to be present and functioning in an effective internal control system. In assessing effectiveness, management evaluates whether its ICFR includes policies, procedures and activities that address the elements of internal control that the applicable control framework describes as necessary for an internal control system to be effective. The framework elements describe the characteristics of an internal control system that may be relevant to individual areas of the company's ICFR, pervasive to many areas, or entity-wide. Therefore, management's evaluation process includes not only controls involving particular areas of financial reporting, but also the entity-wide and other pervasive elements of internal control defined by its selected control framework. This guidance is not intended to replace the elements of an effective system of internal control as defined within a control framework.

1. Identifying Financial Reporting Risks and Controls

Management should evaluate whether it has implemented controls that will achieve the objective of ICFR (that is, to provide reasonable assurance regarding the reliability of financial reporting). The evaluation begins with the identification and assessment of the risks to reliable financial reporting (that is, materially accurate financial statements), including changes in those risks. Management then evaluates whether it has controls placed in operation (that is, in use) that are designed to adequately address those risks. Management ordinarily would consider the company's entity-level controls in both its assessment of risks and in identifying which controls adequately address the risks.

The evaluation approach described herein allows management to identify controls and maintain supporting evidential matter for its controls in a manner that is tailored to the company's financial reporting risks (as defined below). Thus, the controls that management identifies and documents are those that are important to achieving the objective of ICFR. These controls are then subject to procedures to evaluate evidence of their operating

A process designed by, or under the supervision of, the issuer's principal executive and principal financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

(1) Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(2) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the registrant; and

(3) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the financial statements.

[18] As defined in Exchange Act Rule 12b–2 [17 CFR 240.12b–2] and Rule 1–02 of Regulation S–X [17 CFR 210.1–02], a material weakness is a deficiency, or a combination of deficiencies, in ICFR such that there is a reasonable possibility that a material misstatement of the registrant's annual or interim financial statements will not be prevented or detected on a timely basis. See Release No. 34–55928.

[19] This focus on material weaknesses will lead to a better understanding by investors about the company's ICFR, as well as its inherent limitations. Further, the Commission's rules implementing Section 404, by providing for public disclosure of material weaknesses, concentrate attention on the most important internal control issues.

[20] If management's evaluation process identifies material weaknesses, but all material weaknesses are remediated by the end of the fiscal year, management may conclude that ICFR is effective as of the end of the fiscal year. However, management should consider whether disclosure of such remediated material weaknesses is appropriate or required under Item 307 or Item 308 of Regulations S–K or S–B or other Commission disclosure rules.

[21] The term ''entity-level controls'' as used in this document describes aspects of a system of internal control that have a pervasive effect on the entity's system of internal control such as controls related to the control environment (for example, management's philosophy and operating style, integrity and ethical values; board or audit committee oversight; and assignment of authority and responsibility); controls over management override; the company's risk assessment process; centralized processing and controls, including shared service environments; controls to monitor results of operations; controls to monitor other controls, including activities of the internal audit function, the audit committee, and self-assessment programs; controls over the period-end financial reporting process; and policies that address significant business control and risk management practices. The terms ''company-level'' and ''entity-wide'' are also commonly used to describe these controls.

[22] Because management is responsible for maintaining effective ICFR, this interpretive guidance does not specifically address the role of the board of directors or audit committee in a company's evaluation and assessment of ICFR. However, we would ordinarily expect a board of directors or audit committee, as part of its oversight responsibilities for the company's financial reporting, to be reasonably knowledgeable and informed about the evaluation process and management's assessment, as necessary in the circumstances.

[23] In the Adopting Release, the Commission specified characteristics of a suitable control framework and identified the *Internal Control—Integrated Framework (1992)* created by the Committee of Sponsoring Organizations of the Treadway Commission (''COSO'') as an example of a suitable framework. We also cited the *Guidance on Assessing Control* published by the Canadian Institute of Chartered Accountants (''CoCo'') and the report published by the Institute of Chartered Accountants in England & Wales *Internal Control: Guidance for Directors on the Combined Code* (known as the Turnbull Report) as examples of other suitable frameworks that issuers could choose in evaluating the effectiveness of their ICFR. We encourage companies to examine and select a framework that may be useful in their own circumstances; we also encourage the further development of existing and alternative frameworks.

[24] For example, both the COSO framework and the Turnbull Report state that determining whether a system of internal control is effective is a subjective judgment resulting from an assessment of whether the five components (that is, control environment, risk assessment, control activities, monitoring, and information and communication) are present and functioning effectively. Although CoCo states that an assessment of effectiveness should be made against twenty specific criteria, it acknowledges that the criteria can be regrouped into different structures, and includes a table showing how the criteria can be regrouped into the five-component structure of COSO.

effectiveness, as determined pursuant to Section II.A.2.

a. Identifying Financial Reporting Risks

Management should identify those risks of misstatement that could, individually or in combination with others, result in a material misstatement of the financial statements (''financial reporting risks''). Ordinarily, the identification of financial reporting risks begins with evaluating how the requirements of GAAP apply to the company's business, operations and transactions. Management must provide investors with financial statements that fairly present the company's financial position, results of operations and cash flows in accordance with GAAP. A lack of fair presentation arises when one or more financial statement amounts or disclosures (''financial reporting elements'') contain misstatements (including omissions) that are material.

Management uses its knowledge and understanding of the business, and its organization, operations, and processes, to consider the sources and potential likelihood of misstatements in financial reporting elements. Internal and external risk factors that impact the business, including the nature and extent of any changes in those risks, may give rise to a risk of misstatement. Risks of misstatement may also arise from sources such as the initiation, authorization, processing and recording of transactions and other adjustments that are reflected in financial reporting elements. Management may find it useful to consider ''what could go wrong'' within a financial reporting element in order to identify the sources and the potential likelihood of misstatements and identify those that could result in a material misstatement of the financial statements.

The methods and procedures for identifying financial reporting risks will vary based on the characteristics of the company. These characteristics include, among others, the size, complexity, and organizational structure of the company and its processes and financial reporting environment, as well as the control framework used by management. For example, to identify financial reporting risks in a larger business or a complex business process, management's methods and procedures may involve a variety of company personnel, including those with specialized knowledge. These individuals, collectively, may be necessary to have a sufficient understanding of GAAP, the underlying business transactions and the process activities, including the role of computer technology, that are required to initiate, authorize, record and process transactions. In contrast, in a small company that operates on a centralized basis with less complex business processes and with little change in the risks or processes, management's daily involvement with the business may provide it with adequate knowledge to appropriately identify financial reporting risks.

Management's evaluation of the risk of misstatement should include consideration of the vulnerability of the entity to fraudulent activity (for example, fraudulent financial reporting, misappropriation of assets and corruption), and whether any such exposure could result in a material misstatement of the financial statements.[25] The extent of activities required for the evaluation of fraud risks is commensurate with the size and complexity of the company's operations and financial reporting environment.[26]

Management should recognize that the risk of material misstatement due to fraud ordinarily exists in any organization, regardless of size or type, and it may vary by specific location or segment and by individual financial reporting element. For example, one type of fraud risk that has resulted in fraudulent financial reporting in companies of all sizes and types is the risk of improper override of internal controls in the financial reporting process. While the identification of a fraud risk is not necessarily an indication that a fraud has occurred, the absence of an identified fraud is not an indication that no fraud risks exist. Rather, these risk assessments are used in evaluating whether adequate controls have been implemented.

b. Identifying Controls That Adequately Address Financial Reporting Risks

Management should evaluate whether it has controls[27] placed in operation (that is, in use) that adequately address the company's financial reporting risks. The determination of whether an individual control, or a combination of controls, adequately addresses a financial reporting risk involves judgments about whether the controls, if operating properly, can effectively prevent or detect misstatements that could result in material misstatements in the financial statements.[28] If management determines that a deficiency in ICFR exists, it must be evaluated to determine whether a material weakness exists.[29] The guidance in Section II.B.1. is designed to assist management with that evaluation.

Management may identify preventive controls, detective controls, or a combination of both, as adequately addressing financial reporting risks.[30] There might be more than one control that addresses the financial reporting risks for a financial reporting element; conversely, one control might address the risks of more than one financial reporting element. It is not necessary to identify all controls that may exist or identify redundant controls, unless redundancy itself is required to address the financial reporting risks. To illustrate, management may determine that the risk of a misstatement in interest expense, which could result in a material misstatement of the financial statements, is adequately addressed by a control within the company's period-end financial reporting process (that is, an entity-level control). In such a case, management may not need to identify, for purposes of the ICFR evaluation, any

[25] For example, COSO's *Internal Control Over Financial Reporting—Guidance for Smaller Public Companies* (2006), Volume 1: Executive Summary, Principle 10: Fraud Risk (page 10) states, ''The potential for material misstatement due to fraud is explicitly considered in assessing risks to the achievement of financial reporting objectives.''

[26] Management may find resources such as ''Management Antifraud Programs and Controls—Guidance to Help Prevent, Deter, and Detect Fraud,'' which was issued jointly by seven professional organizations and is included as an exhibit to AU Sec. 316, *Consideration of Fraud in a Financial Statement Audit* (as adopted on an interim basis by the PCAOB in PCAOB Rule 3200T) helpful in assessing fraud risks. Other resources also exist (for example, the American Institute of Certified Public Accountants' (AICPA) *Management Override of Internal Controls: The Achilles' Heel of Fraud Prevention* (2005)), and more may be developed in the future.

[27] A control consists of a specific set of policies, procedures, and activities designed to meet an objective. A control may exist within a designated function or activity in a process. A control's impact on ICFR may be entity-wide or specific to an account balance, class of transactions or application. Controls have unique characteristics—for example, they can be: Automated or manual; reconciliations; segregation of duties; review and approval authorizations; safeguarding and accountability of assets; preventing or detecting error or fraud. Controls within a process may consist of financial reporting controls and operational controls (that is, those designed to achieve operational objectives).

[28] Companies may use ''control objectives,'' which provide specific criteria against which to evaluate the effectiveness of controls, to assist in evaluating whether controls can prevent or detect misstatements.

[29] A deficiency in the design of ICFR exists when (a) Necessary controls are missing or (b) existing controls are not properly designed so that, even if the control operates as designed, the financial reporting risks would not be addressed.

[30] Preventive controls have the objective of preventing the occurrence of errors or fraud that could result in a misstatement of the financial statements. Detective controls have the objective of detecting errors or fraud that has already occurred that could result in a misstatement of the financial statements. Preventive and detective controls may be completely manual, involve some degree of computer automation, or be completely automated.

additional controls related to the risk of misstatement in interest expense.

Management may also consider the efficiency with which evidence of the operation of a control can be evaluated when identifying the controls that adequately address the financial reporting risks. When more than one control exists and each adequately addresses a financial reporting risk, management may decide to select the control for which evidence of operating effectiveness can be obtained more efficiently. Moreover, when adequate information technology (''IT'') general controls exist and management has determined that the operation of such controls is effective, management may determine that automated controls are more efficient to evaluate than manual controls. Considering the efficiency with which the operation of a control can be evaluated will often enhance the overall efficiency of the evaluation process.

In addition to identifying controls that address the financial reporting risks of individual financial reporting elements, management also evaluates whether it has controls in place to address the entity-level and other pervasive elements of ICFR that its chosen control framework prescribes as necessary for an effective system of internal control. This would ordinarily include, for example, considering how and whether controls related to the control environment, controls over management override, the entity-level risk assessment process and monitoring activities,[31] controls over the period-end financial reporting process,[32] and the policies that address significant business control and risk management practices are adequate for purposes of an effective system of internal control. The control frameworks and related guidance may be useful tools for evaluating the adequacy of these elements of ICFR.

When identifying the controls that address financial reporting risks, management learns information about the characteristics of the controls that should inform its judgments about the risk that a control will fail to operate as designed. This includes, for example, information about the judgment required in its operation and information about the complexity of the controls. Section II.A.2. discusses how these characteristics are considered in determining the nature and extent of evidence of the operation of the controls that management evaluates.

At the end of this identification process, management has identified for evaluation those controls that are needed to meet the objective of ICFR (that is, to provide reasonable assurance regarding the reliability of financial reporting) and for which evidence about their operation can be obtained most efficiently.

c. Consideration of Entity-Level Controls

Management considers entity-level controls when identifying financial reporting risks and related controls for a financial reporting element. In doing so, it is important for management to consider the nature of the entity-level controls and how those controls relate to the financial reporting element. The more indirect the relationship to a financial reporting element, the less effective a control may be in preventing or detecting a misstatement.[33]

Some entity-level controls, such as certain control environment controls, have an important, but indirect, effect on the likelihood that a misstatement will be prevented or detected on a timely basis. These controls might affect the other controls management determines are necessary to adequately address financial reporting risks for a financial reporting element. However, it is unlikely that management will identify only this type of entity-level control as adequately addressing a financial reporting risk identified for a financial reporting element.

Other entity-level controls may be designed to identify possible breakdowns in lower-level controls, but not in a manner that would, by themselves, adequately address financial reporting risks. For example, an entity-level control that monitors the results of operations may be designed to detect potential misstatements and investigate whether a breakdown in lower-level controls occurred. However, if the amount of potential misstatement that could exist before being detected by the monitoring control is too high, then the control may not adequately address the financial reporting risks of a financial reporting element.

Entity-level controls may be designed to operate at the process, application, transaction or account-level and at a level of precision that would adequately prevent or detect on a timely basis misstatements in one or more financial reporting elements that could result in a material misstatement of the financial statements. In these cases, management may not need to identify or evaluate additional controls relating to that financial reporting risk.

d. Role of Information Technology General Controls

Controls that management identifies as addressing financial reporting risks may be automated,[34] dependent upon IT functionality,[35] or a combination of both manual and automated procedures.[36] In these situations, management's evaluation process generally considers the design and operation of the automated or IT dependent application controls and the relevant IT general controls over the applications providing the IT functionality. While IT general controls alone ordinarily do not adequately address financial reporting risks, the proper and consistent operation of automated controls or IT functionality often depends upon effective IT general controls. The identification of risks and controls within IT should not be a separate evaluation. Instead, it should be an integral part of management's top-down, risk-based approach to identifying risks and controls and in determining evidential matter necessary to support the assessment.

Aspects of IT general controls that may be relevant to the evaluation of ICFR will vary depending upon a company's facts and circumstances. For purposes of the evaluation of ICFR, management only needs to evaluate those IT general controls that are necessary for the proper and consistent operation of other controls designed to adequately address financial reporting risks. For example, management might consider whether certain aspects of IT

[31] Monitoring activities may include controls to monitor results of operations and controls to monitor other controls, including activities of the internal audit function, the audit committee, and self-assessment programs.

[32] The nature of controls within the period-end financial reporting process will vary based on a company's facts and circumstances. The period-end financial reporting process may include matters such as: Procedures to enter transaction totals into the general ledger; the initiation, authorization, recording and processing of journal entries in the general ledger; procedures for the selection and application of accounting policies; procedures used to record recurring and non-recurring adjustments to the annual and quarterly financial statements; and procedures for preparing annual and quarterly financial statements and related disclosures.

[33] Controls can be either directly or indirectly related to a financial reporting element. Controls that are designed to have a specific effect on a financial reporting element are considered directly related. For example, controls established to ensure that personnel are properly counting and recording the annual physical inventory relate directly to the existence of the inventory.

[34] For example, application controls that perform automated matching, error checking or edit checking functions.

[35] For example, consistent application of a formula or performance of a calculation and posting correct balances to appropriate accounts or ledgers.

[36] For example, a control that manually investigates items contained in a computer generated exception report.

general control areas, such as program development, program changes, computer operations, and access to programs and data, apply to its facts and circumstances.[37] Specifically, it is unnecessary to evaluate IT general controls that primarily pertain to efficiency or effectiveness of a company's operations, but which are not relevant to addressing financial reporting risks.

e. Evidential Matter To Support the Assessment

As part of its evaluation of ICFR, management must maintain reasonable support for its assessment.[38] Documentation of the design of the controls management has placed in operation to adequately address the financial reporting risks, including the entity-level and other pervasive elements necessary for effective ICFR, is an integral part of the reasonable support. The form and extent of the documentation will vary depending on the size, nature, and complexity of the company. It can take many forms (for example, paper documents, electronic, or other media). Also, the documentation can be presented in a number of ways (for example, policy manuals, process models, flowcharts, job descriptions, documents, internal memorandums, forms, etc). The documentation does not need to include all controls that exist within a process that impacts financial reporting. Rather, the documentation should be focused on those controls that management concludes are adequate to address the financial reporting risks.[39]

In addition to providing support for the assessment of ICFR, documentation of the design of controls also supports other objectives of an effective system of internal control. For example, it serves as evidence that controls within ICFR, including changes to those controls, have been identified, are capable of being communicated to those responsible for their performance, and are capable of being monitored by the company.

2. Evaluating Evidence of the Operating Effectiveness of ICFR

Management should evaluate evidence of the operating effectiveness of ICFR. The evaluation of the operating effectiveness of a control considers whether the control is operating as designed and whether the person performing the control possesses the necessary authority and competence to perform the control effectively. The evaluation procedures that management uses to gather evidence about the operation of the controls it identifies as adequately addressing the financial reporting risks for financial reporting elements (pursuant to Section II.A.1.b) should be tailored to management's assessment of the risk characteristics of both the individual financial reporting elements and the related controls (collectively, ICFR risk). Management should ordinarily focus its evaluation of the operation of controls on areas posing the highest ICFR risk. Management's assessment of ICFR risk also considers the impact of entity-level controls, such as the relative strengths and weaknesses of the control environment, which may influence management's judgments about the risks of failure for particular controls.

Evidence about the effective operation of controls may be obtained from direct testing of controls and on-going monitoring activities. The nature, timing and extent of evaluation procedures necessary for management to obtain sufficient evidence of the effective operation of a control depend on the assessed ICFR risk. In determining whether the evidence obtained is sufficient to provide a reasonable basis for its evaluation of the operation of ICFR, management should consider not only the quantity of evidence (for example, sample size), but also the qualitative characteristics of the evidence. The qualitative characteristics of the evidence include the nature of the evaluation procedures performed, the period of time to which the evidence relates, the objectivity[40] of those evaluating the controls, and, in the case of on-going monitoring activities, the extent of validation through direct testing of underlying controls. For any individual control, different combinations of the nature, timing, and extent of evaluation procedures may provide sufficient evidence. The sufficiency of evidence is not necessarily determined by any of these attributes individually.

a. Determining the Evidence Needed To Support the Assessment

Management should evaluate the ICFR risk of the controls identified in Section II.A.1.b as adequately addressing the financial reporting risks for financial reporting elements to determine the evidence needed to support the assessment. This evaluation should consider the characteristics of the financial reporting elements to which the controls relate and the characteristics of the controls themselves. This concept is illustrated in the following diagram.

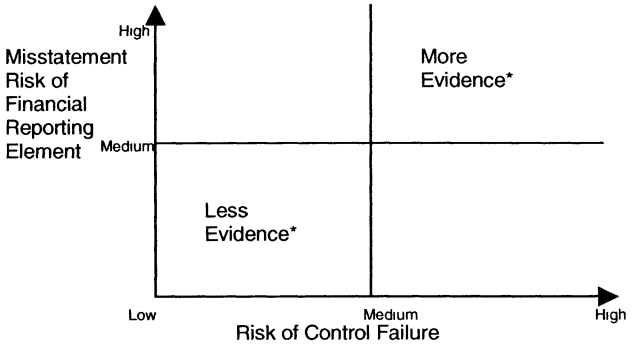
[37] However, the reference to these specific IT general control areas as examples within this guidance does not imply that these areas, either partially or in their entirety, are applicable to all facts and circumstances. As indicated, companies need to take their particular facts and circumstances into consideration in determining which aspects of IT general controls are relevant.

[38] See instructions to Item 308 of Regulations S-K and S-B.

[39] Section II.A.2.c also provides guidance with regard to the documentation required to support management's evaluation of operating effectiveness.

[40] In determining the objectivity of those evaluating controls, management is not required to make an absolute conclusion regarding objectivity, but rather should recognize that personnel will have varying degrees of objectivity based on, among other things, their job function, their relationship to the control being evaluated, and their level of authority and responsibility within the organization. Personnel whose core function involves permanently serving as a testing or compliance authority at the company, such as internal auditors, normally are expected to be the most objective. However, the degree of objectivity of other company personnel may be such that the evaluation of controls performed by them would provide sufficient evidence. Management's judgments about whether the degree of objectivity is adequate to provide sufficient evidence should take into account the ICFR risk.

Determining the Sufficiency of Evidence Based on ICFR Risk



* The references to "more" or "less" include both the quantitative and qualitative characteristics of the evidence (that is, its sufficiency).

Management's consideration of the misstatement risk of a financial reporting element includes both the materiality of the financial reporting element and the susceptibility of the underlying account balances, transactions or other supporting information to a misstatement that could be material to the financial statements. As the materiality of a financial reporting element increases in relation to the amount of misstatement that would be considered material to the financial statements, management's assessment of misstatement risk for the financial reporting element generally would correspondingly increase. In addition, management considers the extent to which the financial reporting elements include transactions, account balances or other supporting information that are prone to material misstatement. For example, the extent to which a financial reporting element: (1) Involves judgment in determining the recorded amounts; (2) is susceptible to fraud; (3) has complex accounting requirements; (4) experiences change in the nature or volume of the underlying transactions; or (5) is sensitive to changes in environmental factors, such as technological and/or economic developments, would generally affect management's judgment of whether a misstatement risk is higher or lower.

Management's consideration of the likelihood that a control might fail to operate effectively includes, among other things:

- The type of control (that is, manual or automated) and the frequency with which it operates;
- The complexity of the control;
- The risk of management override;
- The judgment required to operate the control;
- The competence of the personnel who perform the control or monitor its performance;
- Whether there have been changes in key personnel who either perform the control or monitor its performance;
- The nature and materiality of misstatements that the control is intended to prevent or detect;
- The degree to which the control relies on the effectiveness of other controls (for example, IT general controls); and
- The evidence of the operation of the control from prior year(s).

For example, management's judgment of the risk of control failure would be higher for controls whose operation requires significant judgment than for non-complex controls requiring less judgment.

Financial reporting elements that involve related party transactions, critical accounting policies,[41] and related critical accounting estimates [42] generally would be assessed as having a higher misstatement risk. Further, when the controls related to these financial reporting elements are subject to the risk of management override, involve significant judgment, or are complex, they should generally be assessed as having higher ICFR risk.

When a combination of controls is required to adequately address the risks related to a financial reporting element, management should analyze the risk characteristics of the controls. This is because the controls associated with a given financial reporting element may not necessarily share the same risk characteristics. For example, a financial reporting element involving significant estimation may require a combination of automated controls that accumulate source data and manual controls that require highly judgmental determinations of assumptions. In this case, the automated controls may be subject to a system that is stable (that is, has not undergone significant change) and is supported by effective IT general controls and are therefore assessed as lower risk, whereas the manual controls would be assessed as higher risk.

The consideration of entity-level controls (for example, controls within the control environment) may influence management's determination of the evidence needed to sufficiently support its assessment of ICFR. For example, management's judgment about the likelihood that a control fails to operate effectively may be influenced by a highly effective control environment and thereby impact the evidence evaluated for that control. However, a strong control environment would not eliminate the need to evaluate the operation of the control in some manner.

b. Implementing Procedures To Evaluate Evidence of the Operation of ICFR

Management should evaluate evidence that provides a reasonable basis for its assessment of the operating

[41] "Critical accounting policies" are defined as those policies that are most important to the financial statement presentation, and require management's most difficult, subjective, or complex judgments, often as the result of a need to make estimates about the effect of matters that are inherently uncertain. See Release No. 33–8040 (Dec. 12, 2001) [66 FR 65013].

[42] "Critical accounting estimates" relate to estimates or assumptions involved in the application of generally accepted accounting principles where the nature of the estimates or assumptions is material due to the levels of subjectivity and judgment necessary to account for highly uncertain matters or the susceptibility of such matters to change and the impact of the estimates and assumptions on financial condition or operating performance is material. See Release No. 33–8350 (Dec. 19, 2003) [68 FR 75056]. For additional information, see, for example, Release No. 33–8098 (May 10, 2002) [67 FR 35620].

effectiveness of the controls identified in Section II.A.1. Management uses its assessment of ICFR risk, as determined in Section II.A.2 to determine the evaluation methods and procedures necessary to obtain sufficient evidence. The evaluation methods and procedures may be integrated with the daily responsibilities of its employees or implemented specifically for purposes of the ICFR evaluation. Activities that are performed for other reasons (for example, day-to-day activities to manage the operations of the business) may also provide relevant evidence. Further, activities performed to meet the monitoring objectives of the control framework may provide evidence to support the assessment of the operating effectiveness of ICFR.

The evidence management evaluates comes from direct tests of controls, on-going monitoring, or a combination of both. Direct tests of controls are tests ordinarily performed on a periodic basis by individuals with a high degree of objectivity relative to the controls being tested. Direct tests provide evidence as of a point in time and may provide information about the reliability of on-going monitoring activities. On-going monitoring includes management's normal, recurring activities that provide information about the operation of controls. These activities include, for example, self-assessment [43] procedures and procedures to analyze performance measures designed to track the operation of controls.[44] Self-assessment is a broad term that can refer to different types of procedures performed by individuals with varying degrees of objectivity. It includes assessments made by the personnel who operate the control as well as members of management who are not responsible for operating the control. The evidence provided by self-assessment activities depends on the personnel involved and the manner in which the activities are conducted. For example, evidence from self-assessments performed by personnel responsible for operating the control generally provides less evidence due to the evaluator's lower degree of objectivity.

As the ICFR risk increases, management will ordinarily adjust the nature of the evidence that is obtained. For example, management can increase the evidence from on-going monitoring activities by utilizing personnel who are more objective and/or increasing the extent of validation through periodic direct testing of the underlying controls. Management can also vary the evidence obtained by adjusting the period of time covered by direct testing. When ICFR risk is assessed as high, the evidence management obtains would ordinarily consist of direct testing or on-going monitoring activities performed by individuals who have a higher degree of objectivity. In situations where a company's on-going monitoring activities utilize personnel who are not adequately objective, the evidence obtained would normally be supplemented with direct testing by those who are independent from the operation of the control. In these situations, direct testing of controls corroborates evidence from on-going monitoring activities as well as evaluates the operation of the underlying controls and whether they continue to adequately address financial reporting risks. When ICFR risk is assessed as low, management may conclude that evidence from on-going monitoring is sufficient and that no direct testing is required. Further, management's evaluation would ordinarily consider evidence from a reasonable period of time during the year, including the fiscal year-end.

In smaller companies, management's daily interaction with its controls may provide it with sufficient knowledge about their operation to evaluate the operation of ICFR. Knowledge from daily interaction includes information obtained by on-going direct involvement with and direct supervision of the execution of the control by those responsible for the assessment of the effectiveness of ICFR. Management should consider its particular facts and circumstances when determining whether its daily interaction with controls provides sufficient evidence to evaluate the operating effectiveness of ICFR. For example, daily interaction may be sufficient when the operation of controls is centralized and the number of personnel involved is limited. Conversely, daily interaction in companies with multiple management reporting layers or operating segments would generally not provide sufficient evidence because those responsible for assessing the effectiveness of ICFR would not ordinarily be sufficiently knowledgeable about the operation of the controls. In these situations, management would ordinarily utilize direct testing or on-going monitoring-type evaluation procedures to obtain reasonable support for the assessment.

Management evaluates the evidence it gathers to determine whether the operation of a control is effective. This evaluation considers whether the control operated as designed. It also considers matters such as how the control was applied, the consistency with which it was applied, and whether the person performing the control possesses the necessary authority and competence to perform the control effectively. If management determines that the operation of the control is not effective, a deficiency exists that must be evaluated to determine whether it is a material weakness.

c. Evidential Matter To Support the Assessment

Management's assessment must be supported by evidential matter that provides reasonable support for its assessment. The nature of the evidential matter may vary based on the assessed level of ICFR risk of the underlying controls and other circumstances. Reasonable support for an assessment would include the basis for management's assessment, including documentation of the methods and procedures it utilizes to gather and evaluate evidence.

The evidential matter may take many forms and will vary depending on the assessed level of ICFR risk for controls over each of its financial reporting elements. For example, management may document its overall strategy in a comprehensive memorandum that establishes the evaluation approach, the evaluation procedures, the basis for management's conclusion about the effectiveness of controls related to the financial reporting elements and the entity-level and other pervasive elements that are important to management's assessment of ICFR.

If management determines that the evidential matter within the company's books and records is sufficient to provide reasonable support for its assessment, it may determine that it is not necessary to separately maintain copies of the evidence it evaluates. For example, in smaller companies, where management's daily interaction with its controls provides the basis for its assessment, management may have limited documentation created specifically for the evaluation of ICFR. However, in these instances, management should consider whether reasonable support for its assessment

[43] For example, COSO's 1992 framework defines self-assessments as ''evaluations where persons responsible for a particular unit or function will determine the effectiveness of controls for their activities.''

[44] Management's evaluation process may also consider the results of key performance indicators (''KPIs'') in which management reconciles operating and financial information with its knowledge of the business. The procedures that management implements pursuant to this section should evaluate the effective operation of these KPI-type controls when they are identified pursuant to Section II.A.1.b. as addressing financial reporting risk.

would include documentation of how its interaction provided it with sufficient evidence. This documentation might include memoranda, e-mails, and instructions or directions to and from management to company employees.

Further, in determining the nature of supporting evidential matter, management should also consider the degree of complexity of the control, the level of judgment required to operate the control, and the risk of misstatement in the financial reporting element that could result in a material misstatement of the financial statements. As these factors increase, management may determine that evidential matter supporting the assessment should be separately maintained. For example, management may decide that separately maintained documentation in certain areas will assist the audit committee in exercising its oversight of the company's financial reporting.

The evidential matter constituting reasonable support for management's assessment would ordinarily include documentation of how management formed its conclusion about the effectiveness of the company's entity-level and other pervasive elements of ICFR that its applicable framework describes as necessary for an effective system of internal control.

3. Multiple Location Considerations

Management's consideration of financial reporting risks generally includes all of its locations or business units.[45] Management may determine that financial reporting risks are adequately addressed by controls which operate centrally, in which case the evaluation approach is similar to that of a business with a single location or business unit. When the controls necessary to address financial reporting risks operate at more than one location or business unit, management would generally evaluate evidence of the operation of the controls at the individual locations or business units.

Management may determine that the ICFR risk of the controls (as determined through Section II.A.2.a) that operate at individual locations or business units is low. In such situations, management may determine that evidence gathered through self-assessment routines or other on-going monitoring activities, when combined with the evidence derived from a centralized control that monitors the results of operations at individual locations, constitutes sufficient evidence for the evaluation. In other situations, management may determine that, because of the complexity or judgment in the operation of the controls at the individual location, the risk that controls will fail to operate is high, and therefore more evidence is needed about the effective operation of the controls at the location.

Management should generally consider the risk characteristics of the controls for each financial reporting element, rather than making a single judgment for all controls at that location when deciding whether the nature and extent of evidence is sufficient. When performing its evaluation of the risk characteristics of the controls identified, management should consider whether there are location-specific risks that might impact the risk that a control might fail to operate effectively. Additionally, there may be pervasive risk factors that exist at a location that cause all controls, or a majority of controls, at that location to be considered higher risk.

B. Reporting Considerations

1. Evaluation of Control Deficiencies

In order to determine whether a control deficiency, or combination of control deficiencies, is a material weakness, management evaluates the severity of each control deficiency that comes to its attention. Control deficiencies that are determined to be a material weakness must be disclosed in management's annual report on its assessment of the effectiveness of ICFR. Control deficiencies that are considered to be significant deficiencies are reported to the company's audit committee and the external auditor pursuant to management's compliance with the certification requirements in Exchange Act Rule 13a–14.[46]

Management may not disclose that it has assessed ICFR as effective if one or more deficiencies in ICFR are determined to be a material weakness. As part of the evaluation of ICFR, management considers whether each deficiency, individually or in combination, is a material weakness as of the end of the fiscal year. Multiple control deficiencies that affect the same financial statement amount or disclosure increase the likelihood of misstatement and may, in combination, constitute a material weakness if there is a reasonable possibility[47] that a material misstatement of the financial statements would not be prevented or detected in a timely manner, even though such deficiencies may be individually less severe than a material weakness. Therefore, management should evaluate individual control deficiencies that affect the same financial statement amount or disclosure, or component of internal control, to determine whether they collectively result in a material weakness.

The evaluation of the severity of a control deficiency should include both quantitative and qualitative factors. Management evaluates the severity of a deficiency in ICFR by considering whether there is a reasonable possibility that the company's ICFR will fail to prevent or detect a misstatement of a financial statement amount or disclosure; and the magnitude of the potential misstatement resulting from the deficiency or deficiencies. The severity of a deficiency in ICFR does not depend on whether a misstatement actually has occurred but rather on whether there is a reasonable possibility that the company's ICFR will fail to prevent or detect a misstatement on a timely basis.

Risk factors affect whether there is a reasonable possibility[48] that a deficiency, or a combination of deficiencies, will result in a misstatement of a financial statement amount or disclosure. These factors include, but are not limited to, the following:

- The nature of the financial reporting elements involved (for example, suspense accounts and related party transactions involve greater risk);

[45] Consistent with the guidance in Section II.A.1., management may determine when identifying financial reporting risks that some locations are so insignificant that no further evaluation procedures are needed.

[46] Pursuant to Exchange Act Rules 13a–14 and 15d–14 [17 CFR 240.13a–14 and 240.15d–14], management discloses to the auditors and to the audit committee of the board of directors (or persons fulfilling the equivalent function) all material weaknesses and significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize and report financial data. The term ''material weakness'' is defined in the Commission's rules in Exchange Act Rule 12b–2 and Rule 1–02 of Regulation S–X. See Release No. 34–55928. The Commission is seeking additional comment on the definition of the term ''significant deficiency'' in the Commission's rules in Exchange Act Rule 12b–2 and Rule 1–02 of Regulation S–X. See Release No. 34–55930.

[47] There is a reasonable possibility of an event when the likelihood of the event is either ''reasonably possible'' or ''probable'' as those terms are used in Financial Accounting Standards Board Statement No. 5, *Accounting for Contingencies.* The use of the phrase ''reasonable possibility that a material misstatement of the financial statements would not be prevented or detected in a timely manner'' is intended solely to assist management in identifying matters for disclosure under Item 308 of Regulation S–K. It is not intended to interpret or describe management's responsibility under the FCPA or modify a control framework's definition of what constitutes an effective system of internal control.

[48] The evaluation of whether a deficiency in ICFR presents a reasonable possibility of misstatement can be made without quantifying the probability of occurrence as a specific percentage or range.

• The susceptibility of the related asset or liability to loss or fraud (that is, greater susceptibility increases risk);

• The subjectivity, complexity, or extent of judgment required to determine the amount involved (that is, greater subjectivity, complexity, or judgment, like that related to an accounting estimate, increases risk);

• The interaction or relationship of the control with other controls, including whether they are interdependent or redundant;

• The interaction of the deficiencies (that is, when evaluating a combination of two or more deficiencies, whether the deficiencies could affect the same financial statement amounts or disclosures); and

• The possible future consequences of the deficiency.

Factors that affect the magnitude of the misstatement that might result from a deficiency or deficiencies in ICFR include, but are not limited to, the following:

• The financial statement amounts or total of transactions exposed to the deficiency; and

• The volume of activity in the account balance or class of transactions exposed to the deficiency that has occurred in the current period or that is expected in future periods.

In evaluating the magnitude of the potential misstatement, the maximum amount that an account balance or total of transactions can be overstated is generally the recorded amount, while understatements could be larger. Also, in many cases, the probability of a small misstatement will be greater than the probability of a large misstatement.

Management should evaluate the effect of compensating controls [49] when determining whether a control deficiency or combination of deficiencies is a material weakness. To have a mitigating effect, the compensating control should operate at a level of precision that would prevent or detect a misstatement that could be material.

In determining whether a deficiency or a combination of deficiencies represents a material weakness, management considers all relevant information. Management should evaluate whether the following situations indicate a deficiency in ICFR exists and, if so, whether it represents a material weakness:

• Identification of fraud, whether or not material, on the part of senior management; [50]

• Restatement of previously issued financial statements to reflect the correction of a material misstatement; [51]

• Identification of a material misstatement of the financial statements in the current period in circumstances that indicate the misstatement would not have been detected by the company's ICFR; and

• Ineffective oversight of the company's external financial reporting and internal control over financial reporting by the company's audit committee.

When evaluating the severity of a deficiency, or combination of deficiencies, in ICFR, management also should determine the level of detail and degree of assurance that would satisfy prudent officials in the conduct of their own affairs that they have reasonable assurance that transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP. If management determines that the deficiency, or combination of deficiencies, might prevent prudent officials in the conduct of their own affairs from concluding that they have reasonable assurance that transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP, then management should treat the deficiency, or combination of deficiencies, as an indicator of a material weakness.

2. Expression of Assessment of Effectiveness of ICFR by Management

Management should clearly disclose its assessment of the effectiveness of ICFR and, therefore, should not qualify its assessment by stating that the company's ICFR is effective subject to certain qualifications or exceptions. For example, management should not state that the company's controls and procedures are effective except to the extent that certain material weakness(es) have been identified. In addition, if a material weakness exists, management may not state that the company's ICFR is effective. However, management may state that controls are ineffective for specific reasons.

3. Disclosures About Material Weaknesses

The Commission's rule implementing Section 404 was intended to bring information about material weaknesses in ICFR into public view. Because of the significance of the disclosure requirements surrounding material weaknesses beyond specifically stating that the material weaknesses exist, companies should also consider including the following in their disclosures: [52]

• The nature of any material weakness,

• Its impact on the company's financial reporting and its ICFR, and

• Management's current plans, if any, or actions already undertaken, for remediating the material weakness.

Disclosure of the existence of a material weakness is important, but there is other information that also may be material and necessary to form an overall picture that is not misleading.[53] The goal underlying all disclosure in this area is to provide an investor with disclosure and analysis that goes beyond describing the mere existence of a material weakness. There are many different types of material weaknesses and many different factors that may be important to the assessment of the potential effect of any particular material weakness. While management is required to conclude and state in its report that ICFR is ineffective when there are one or more material weaknesses, companies should also consider providing disclosure that allows investors to understand the cause of the control deficiency and to assess the potential impact of each particular material weakness. This disclosure will be more useful to investors if management differentiates the potential impact and importance to the financial statements of the identified material weaknesses, including distinguishing those material weaknesses that may have a pervasive impact on ICFR from those material weaknesses that do not.

4. Impact of a Restatement of Previously Issued Financial Statements on Management's Report on ICFR

Item 308 of Regulation S–K requires disclosure of management's assessment of the effectiveness of the company's ICFR as of the end of the company's most recent fiscal year. When a material misstatement of previously issued

[49] Compensating controls are controls that serve to accomplish the objective of another control that did not function properly, helping to reduce risk to an acceptable level.

[50] For purposes of this indicator, the term ''senior management'' includes the principal executive and financial officers signing the company's certifications as required under Section 302 of Sarbanes Oxley as well as any other members of senior management who play a significant role in the company's financial reporting process.

[51] See FAS 154, *Accounting Changes and Error Corrections,* regarding correction of a misstatement.

[52] Significant deficiencies in ICFR are not required to be disclosed in management's annual report on its evaluation of ICFR required by Item 308(a).

[53] See Exchange Act Rule 12b–20 [17 CFR 240.12b–20].

financial statements is discovered, a company is required to restate those financial statements. However, the restatement of financial statements does not, by itself, necessitate that management consider the effect of the restatement on the company's prior conclusion related to the effectiveness of ICFR.

While there is no requirement for management to reassess or revise its conclusion related to the effectiveness of ICFR, management should consider whether its original disclosures are still appropriate and should modify or supplement its original disclosure to include any other material information that is necessary for such disclosures not to be misleading in light of the restatement. The company should also disclose any material changes to ICFR, as required by Item 308(c) of Regulation S–K.

Similarly, while there is no requirement that management reassess or revise its conclusion related to the effectiveness of its disclosure controls and procedures, management should consider whether its original disclosures regarding effectiveness of disclosure controls and procedures need to be modified or supplemented to include any other material information that is necessary for such disclosures not to be misleading. With respect to the disclosures concerning ICFR and disclosure controls and procedures, the company may need to disclose in this context what impact, if any, the restatement has on its original conclusions regarding effectiveness of ICFR and disclosure controls and procedures.

5. Inability To Assess Certain Aspects of ICFR

In certain circumstances, management may encounter difficulty in assessing certain aspects of its ICFR. For example, management may outsource a significant process to a service organization and determine that evidence of the operating effectiveness of the controls over that process is necessary. However, the service organization may be unwilling to provide either a Type 2 SAS 70 report or to provide management access to the controls in place at the service organization so that management could assess effectiveness.[54] Finally, management may not have compensating controls in place that allow a determination of the effectiveness of the controls over the process in an alternative manner. The Commission's disclosure requirements state that management's annual report on ICFR must include a statement as to whether or not ICFR is effective and do not permit management to issue a report on ICFR with a scope limitation.[55] Therefore, management must determine whether the inability to assess controls over a particular process is significant enough to conclude in its report that ICFR is not effective.

III. Discussion of Comments on the Proposing Release

The Proposing Release proposed for public comment interpretive guidance for management regarding the annual evaluation of ICFR required by Rules 13a-15(c) and 15d-15(c) under the Exchange Act. We received letters from 211 commenters in response to the Proposing Release.[56] The majority of commenters were supportive of the Commission's efforts in developing this Interpretive Guidance. We have reviewed and considered all of the comments received on the proposal, and we discuss our conclusions with respect to the comments in more detail in the following sections.

A. Alignment between Management's Evaluation and Assessment and the External Audit

Commenters expressed concern that confusion and inefficiencies may arise from differences between the proposed guidance for management's evaluation of ICFR and the PCAOB's proposed auditing standard for ICFR.[57] Commenters cited a lack of alignment between the two with regard to the terminology and definitions used[58] as well as differences in the overall approach. Some commenters that were supportive of the principles-based approach to the proposed interpretive guidance expressed concern that improvements in the efficiency of management's evaluation of ICFR would be limited by what they viewed as comparatively more prescriptive guidance for external auditors in the Proposed Auditing Standard.[59] Other commenters suggested that maximizing their auditor's ability to rely on the work performed in management's evaluation would require aligning the evaluation approach for management with the Proposed Auditing Standard.[60] Even so, some of these commenters still viewed the interpretive guidance as an improvement because it provides management the ability to choose whether, and to what extent, it should align its evaluation with the auditing standard; whereas commenters said that management feels compelled to align with the auditing standard under the current rules. Other commenters suggested that the proposed interpretive guidance was compatible with the Proposed Auditing Standard and that improvements in implementation could be attained with close coordination between management and auditors.[61]

In response to the comment letters, we have revised our proposal to more closely align it with how we anticipate the PCAOB will revise its proposed auditing standard. For example, the

[54] AU Sec. 324, *Service Organizations* (as adopted on an interim basis by the Public Company Accounting Oversight Board (''PCAOB'') in PCAOB Rule 3200T), defines a report on controls placed in operation and test of operating effectiveness, commonly referred to as a ''Type 2 SAS 70 report.'' This report is a service auditor's report on a service organization's description of the controls that may be relevant to a user organization's internal control as it relates to an audit of financial statements, on whether such controls were suitably designed to achieve specified control objectives, on whether they had been placed in operation as of a specific date, and on whether the controls that were tested were operating with sufficient effectiveness to provide reasonable, but not absolute, assurance that the related control objectives were achieved during the period specified.

[55] See Item 308(a)(3) of Regulations S–K and S–B [17 CFR 229.308(a)(3) and 228.308(a)(3)].

[56] Of the 211 commenters, 43 were issuers, 33 professional associations and business groups, 19 foreign private issuers and foreign professional associations, 10 investor advocacy and other similar groups, 8 major accounting firms, 11 smaller accounting firms and Section 404 service providers, 8 banks and banking associations, 4 law firms and law associations, and 75 other interested parties including students, academics, and other individuals. The comment letters are available for inspection in the Commission's Public Reference Room at 100 F Street, NE., Washington, DC 20549 in File No. S7–24–06, or may be viewed at *http://www.sec.gov/comments/s7–24–06/s72406.shtml.*

[57] In PCAOB Release No. 2006–007 the PCAOB proposed for public comment *An Audit of Internal Control Over Financial Reporting That Is Integrated With An Audit of Financial Statements and Considering and Using the Work of Others in an Audit.* See *http://www.pcaobus.org/Rules/Docket_021/2006–12–19_Release_No._2006–007.pdf* (hereinafter ''Proposed Auditing Standard'').

[58] See, for example, letters from American Bar Association's Committees on Federal Regulation of Securities and Law and Accounting of the Section of Business Law (ABA), Association of Chartered Certified Accountants (ACCA), Edison Electric Institute (EEI), European Federation of Accountants (FEE), Financial Executives International Committee on Corporate Reporting (FEI CCR), Frank Gorrell (F. Gorrell), Society of Corporate Secretaries and Governance Professionals, and The Institute of Chartered Accountants in England and Wales (ICAEW).

[59] See, for example, letters from Eli Lilly and Company (Eli Lilly), FEI CCR, Hutchinson Technology Inc. (Hutchinson), Independent Community Bankers of America (ICBA), MetLife Inc. (MetLife), Procter & Gamble Company (P&G), and Supervalu Inc. (Supervalu).

[60] See, for example, letters from Heritage Financial Corporation and Southern Company.

[61] See, for example, letters from BDO Seidman LLP (BDO), McGladrey & Pullen LLP (M&P), and PricewaterhouseCoopers LLP (PwC).

definition of a material weakness and the related guidance for evaluating deficiencies, including indicators of a material weakness, have been revised.[62] In addition, alignment revisions were made to the guidance for evaluating whether controls adequately address financial reporting risks, including entity-level controls, the factors to consider when identifying financial reporting risks and the factors for assessing the risk associated with individual financial reporting elements and controls.

However, some differences between our final interpretive guidance for management and the PCAOB's audit standard remain. These differences are not necessarily contradictions or misalignment; rather they reflect the fact that management and the auditor have different roles and responsibilities with respect to evaluating and auditing ICFR. Management is responsible for designing and maintaining ICFR and performing an evaluation annually that provides it with a reasonable basis for its assessment as to whether ICFR is effective as of fiscal year-end. Management's daily involvement with its internal control system provides it with knowledge and information that may influence its judgments about how best to conduct the evaluation and the sufficiency of evidence it needs to assess the effectiveness of ICFR. In contrast, the auditor is responsible for conducting an independent audit that includes appropriate professional skepticism. Moreover, the audit of ICFR is integrated with the audit of the company's financial statements. While there is a close relationship between the work performed by management and its auditor, the ICFR audit will not necessarily be limited to the nature and extent of procedures management has already performed as part of its evaluation of ICFR. There will be differences in the approaches used by management and the auditor because the auditor does not have the same information and understanding as management and because the auditor will need to integrate its tests of ICFR with the financial statement audit. We agree with those commenters that suggested coordination between management and auditors on their respective efforts will ensure that both the evaluation by management and the independent audit are completed in an efficient and effective manner.

[62] The revisions made to the proposed definition of material weakness and the related guidance, including the strong indicators, are discussed in Section III.F. of this document.

B. Principles-based Nature of Guidance for Conducting the Evaluation

The guidance is intended to assist management in complying with two broad principles: (1) Evaluate whether controls have been implemented to adequately address the risk that a material misstatement of the financial statements would not be prevented or detected in a timely manner and (2) evaluate evidence about the operation of controls based on an assessment of risk. We believe the guidance will enable companies of all sizes and complexities to comply with our rules effectively and efficiently.

Commenters expressed support for the proposed guidance's principles-based approach.[63] However, some requested that the proposal be revised to include additional guidance and illustrative examples in the following areas:[64]

- The identification of controls that address financial reporting risks;[65]
- The assessment of ICFR risk, including how evidence gained over prior periods should impact management's assessment of risks associated with controls identified and therefore, the evidence needed to support its assessment;[66]
- How varying levels of risk impact the nature of the evidence necessary to support its assessment;[67]
- When on-going monitoring activities, including self-assessments, could be used to support management's assessment and reduce direct testing;[68]
- Sampling techniques, sample sizes, and testing methods;[69]
- The type and manner in which supporting evidence should be maintained;[70] including specific guidelines regarding the amount, form and medium of evidence;[71] and
- How management should document the effectiveness of monitoring activities utilized to support its assessment, as well as how management should support the evidence obtained from its daily interaction with controls as part of its assessment.[72]

We have considered the requests for additional guidance and decided to retain the principles-based nature of the proposed guidance. We believe an evaluation of ICFR will be most effective and efficient when management makes use of all available facts and information to make reasonable judgments about the evaluation methods and procedures that are necessary to have a reasonable basis for the assessment of the effectiveness of ICFR and the evidential matter maintained in support of the assessment. Additional guidance and examples in the areas requested would likely have the negative consequence of establishing ''bright line'' or ''one-size fits all'' evaluation approaches. Such an outcome would be contrary to our view that the evaluations must be tailored to a company's individual facts and circumstances to be both effective and efficient. Moreover, an evaluation by management that is focused on compliance with detailed guidance, rather than the risks to the reliability of its financial reporting, would likely lead to evaluations that are inefficient, ineffective or both.

Detailed guidance and examples from the Commission may also limit or hinder the natural evolution and further development of control frameworks and evaluation methodologies as technology, control systems, and financial reporting evolve. As we have previously stated, the Commission supports and encourages the further development of control frameworks and related implementation guidance. For example, the July 2006 small business guidance issued by COSO addresses the identification of financial reporting risks and the related controls. Additionally, we note that COSO is currently working on a project to further define how the effectiveness of control systems can be monitored.[73] As such, companies may

[63] See, for example, letters from ACE Limited (ACE), American Electric Power Company, Inc. (AEP), Business Roundtable (BR), Canadian Bankers Association, Center for Audit Quality (Center), Ernst & Young LLP (EY), Grant Thornton LLP (GT), ING Groep N.V. (ING), Manulife Financial (Manulife), PwC, P&G, and Reznick Group, P.C. (Reznick).

[64] See, for example, letters from Brown-Forman, Ford Motor Company, MasterCard Incorporated (MasterCard), Northrop Grumman Corporation, Supervalu, UFP Technologies (UFP), and UnumProvident Corporation (UnumProvident).

[65] See, for example, letter from Nina Stofberg (N. Stofberg).

[66] See, for example, letters from ISACA and IT Governance Institute (ISACA), Manulife, and Ohio Society of Certified Public Accountants (Ohio).

[67] See, for example, letters from Cardinal Health, Inc. (Cardinal), Cleary Gottlieb Steen & Hamilton LLP (Cleary), and ISACA.

[68] See, for example, letters from BASF Aktiengesellschaft (BASF), Cardinal, Computer Sciences Corporation (CSC), ING, ISACA, Ohio, PPL Corporation (PPL), R. Malcolm Schwartz, N. Stofberg, and UnumProvident.

[69] See, for example, letters from BDO, National Association of Real Estate Investment Trusts, Reznick, and UFP.

[70] See, for example, letters from AEP, BDO, Center, EEI, Frank Consulting, PLLP (Frank), The Hundred Group of Finance Directors (100 Group), Institut Der Wirtschaftsprufer [Institute of Public Auditors in Germany] (IDW), Managed Funds Association (MFA), Nasdaq Stock Market, Inc. (Nasdaq), Ohio, N. Stofberg, and UFP.

[71] See, for example, letter from Nasdaq.

[72] See, for example, letters from BDO and Center.

[73] In a press release on January 8, 2007, COSO announced that Grant Thornton LLP had been

Continued

find that there are other sources for the additional guidance in the areas they are seeking.

Commenters also expressed the view that companies may abuse the flexibility afforded by the proposed principles-based guidance to perform inadequate evaluations, thereby undermining the intended investor protection benefits.[74] Other commenters have observed that material weakness disclosures to investors are too often simultaneous with, rather than in advance of, the restatement of financial statements, which undermines the usefulness of the disclosures.[75] In response to these comments, we note that this principles-based guidance enables management to tailor its evaluation so that it focuses on those areas of financial reporting that pose the highest risk to reliable financial reporting. We believe that a tailored evaluation approach that focuses resources on areas of highest risk will improve, rather than degrade, the effectiveness of many company's evaluations and improve the timeliness of material weakness disclosures to investors.

C. Scalability and Small Business Considerations

Commenters believed that the proposed interpretive guidance can be scaled to companies of all sizes and will benefit smaller public companies in completing their assessments.[76] However, some commenters requested more guidance to enable them to conduct the evaluation in an effective and efficient manner. For example, commenters requested more guidance on how some of the unique characteristics of smaller companies, including a lack of segregation of duties, should be considered in the evaluation.[77]

Other commenters, mostly comprised of investor groups, requested that the guidance emphasize that scaled or tailored evaluation methods and procedures for smaller public companies should be based on both the size and complexity of the business and do not imply less rigorous evaluation methods and procedures.[78]

Some commenters indicated that smaller public companies should continue to be exempt at least until a thorough examination is conducted of both the Interpretive Guidance and the new Auditing Standard to ensure that smaller companies are not disproportionately burdened.[79] Some commenters requested that the SEC further delay the implementation for one additional year[80] or continued to call for a complete exemption from Section 404 for smaller public companies.[81] Other commenters requested that smaller public companies not be exempted.[82]

We believe the principles-based guidance permits flexible and scalable evaluation approaches that will enable management of smaller public companies to evaluate and assess the effectiveness of ICFR without undue cost burdens. The guidance recognizes that internal control systems and the methods and procedures necessary to evaluate their effectiveness may be different in smaller public companies than in larger companies. However, the flexibility provided in the guidance is not meant to imply that evaluations for smaller public companies be conducted with less rigor, or to provide anything less than reasonable assurance as to the effectiveness of ICFR at such companies. Rather, smaller public companies should utilize the flexibility provided in the guidance to cost-effectively tailor and scale their methods and approaches for identifying and documenting financial reporting risks and the related controls and for evaluating whether operation of controls is effective (for example, by utilizing evidence gathered through management's daily interaction with its controls), so that they provide the evidence needed to assess whether ICFR is effective.

In addition, as previously mentioned, companies may find that there are other sources for guidance, such as the July 2006 guidance for applying the COSO framework to smaller public companies. We believe our guidance, when used in conjunction with other such guidance, will enable smaller public companies to have a better understanding of the requirements of a control framework, its role in effective internal control systems and the relationship to our evaluation and disclosure requirements. This should enable management to plan and conduct its evaluation in an effective and efficient manner.

The Commission believes that compliance with the ICFR evaluation and assessment requirements by smaller public companies will further the primary goal of Sarbanes-Oxley which is to enhance the quality of financial reporting and increase investor confidence in the fairness and integrity of the securities markets. We note that all financial statements filed with the Commission, even those by smaller public companies, result from a system of internal controls. Such systems are required by the FCPA to operate at a level that provides ''reasonable assurance'' about the reliability of financial reporting. Our rules implementing Section 404 direct management of all companies to evaluate and assess whether the company's system of internal controls is effective at achieving reasonable assurance. Our guidance is intended to help them do so in a cost-effective manner. Given the principles-based nature of our guidance and the flexibility it provides, we do not believe further postponement of the evaluation requirements are needed for smaller companies. We believe that the timing of the issuance of the Interpretive Guidance is adequate to allow for its effective implementation in 2007 evaluations.

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commissioned to develop guidance to help organizations monitor the quality of their internal control systems. According to that press release, the guidance will serve as a tool for effectively monitoring internal controls while complying with Sarbanes-Oxley. The press release is available at *http://www.coso.org/Publications/COSO%20Monitoring%20GT%20Final%20Release_1.8.07.pdf*.

[74] See, for example, letters from Joseph V. Carcello, Consumer Federation of America, Consumer Action, U.S. Public Interest Research Group (CFA), and Moody's Investors Service (Moody's).

[75] See, for example, letters from CFA and Moody's.

[76] See, for example, letters from American Bankers Association (American Bankers), Anthony S. Chan, Chandler (U.S.A.), Inc. (Chandler), CNB Corporation & Citizens National Bank of Cheboygan (CNB), Financial Services Forum, GT, Greater Boston Chamber of Commerce, Minn-Dak Farmers Cooperative (MDFC), RAM Energy Resources, Inc., and San Jose Water Company.

[77] See, for example, letters from American Electronics Association (AeA), EY, Financial Executives International Small Public Company Task Force (FEI SPCTF), Frank, Institute of Management Accountants (IMA), MFA, U.S. Chamber of Commerce (Chamber), and U.S. Small Business Administration's Office of Advocacy (SBA).

[78] See, for example, letters from California Public Employees' Retirement System (CalPERS), CFA, Council of Institutional Investors, Ethics Resource Center, International Brotherhood of Teamsters, and Pension Reserves Investment Management Board (PRIMB).

[79] See, for example, letters from AeA, Biotechnology Industry Organization, Committee on Capital Markets Regulation (CCMR), Financial Reporting Committee of the Association of the Bar of the City of New York (NYC Bar), International Association of Small Broker Dealers and Advisers, National Venture Capital Association, SBA, Silicon Valley Leadership Group (SVLG), Small Business Entrepreneurship Council, TechNet, and Telecommunications Industry Association.

[80] See, for example, letters from American Bankers, America's Community Bankers, Chandler, CNB, FEI SPCTF, F. Gorrell, ICBA, MFA, and Washington Legal Foundation (WLF).

[81] See, for example, letters from American Stock Exchange, ICBA, UFP, and WLF.

[82] See, for example, letters from American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), CalPERS, Frank, F. Gorrell, PRIMB, and WithumSmith+Brown Global Assurance, LLC.

D. Identifying Financial Reporting Risks and Controls

1. Summary of the Proposal

The proposal directed management to consider the sources and potential likelihood of misstatements, including those arising from fraudulent activity, and identify those that could result in a material misstatement of the financial statements (that is, financial reporting risks). The proposal indicated that management's consideration of the risk of misstatement generally includes all of its locations or business units and that the methods and procedures for identifying financial reporting risks will vary based on the characteristics of the individual company. The proposal discussed factors for management to consider in selecting methods and procedures for evaluating financial reporting risks and in identifying the sources and potential likelihood of misstatement.

The proposal directed management to evaluate whether controls were placed in operation to adequately address the financial reporting risks it identifies. The proposal indicated that controls were not adequate when their design was such that there was a reasonable possibility that a misstatement in a financial reporting element that could result in a material misstatement of the financial statements would not be prevented or detected in a timely manner. The proposal discussed the fact that some controls may be automated or may depend upon IT functionality. In these situations, the proposal stated that management's evaluation should consider not only the design and operation of the automated or IT dependent controls, but also the aspects of IT general controls necessary to adequately address financial reporting risks.

The proposal also indicated that entity-level controls should be considered when identifying financial reporting risks and related controls for a financial reporting element. The proposal discussed the nature of entity-level controls, how they relate to a financial reporting element and the need to consider whether they would prevent or detect material misstatements. If a financial reporting risk for a financial reporting element is adequately addressed by an entity-level control, the proposal indicated that no further controls needed to be identified and tested by management for purposes of the evaluation of ICFR.

2. Comments on the Proposal and Revisions Made

The Commission received a number of comments on the proposed guidance for identifying financial reporting risks and controls. As discussed in Section III.B above, many of these commenters requested more examples or more detailed guidance. Other comments received related to the identification of fraud risks and related controls; entity-level controls; and IT general controls.

Identification of Fraud Risks and Related Controls

Commenters suggested the guidance be revised to more strongly emphasize management's responsibility to identify and evaluate fraud risks and the related controls that address those risks.[83] Commenters also discussed the nature of fraud risks that most often lead to materially misstated financial statements and requested additional guidance regarding which fraud related controls are within the scope of the evaluation;[84] whether management can consider the risk of fraud through the overall risk assessment or if a specific fraud threat analysis is required;[85] and examples of the types of fraud that should be considered.[86] Other commenters noted that there is existing guidance for management, beyond what was referenced in the proposal, for assessing fraud risks and the related controls. These commenters suggested that the proposal be revised to directly incorporate the most relevant elements of such guidance.[87]

In response to the comments, the proposal was revised to clarify that fraud risks are expected to exist at every company and that the nature and extent of the fraud risk assessment activities should be commensurate with the size and complexity of the company. Additionally, we expanded the references to existing guidance to include the AICPA's 2005 *Management Override of Internal Controls: The Achilles' Heel of Fraud Prevention* and COSO's July 2006 *Guidance for Smaller Public Companies.* Given the availability of existing information and guidance on fraud and consistent with the principles-based nature of the interpretive guidance, we determined that it was unnecessary to provide a list of fraud risks expected to be present at every company or a list of the areas of financial reporting expected to have a risk of material misstatement due to fraud. Moreover, providing such a list may result in a ''checklist'' type approach to fraud risk assessments that would likely be ineffective as financial reporting changes over time, or given the wide variety of facts and circumstances that exist in different companies and industries. While management may find such checklists a useful starting point, effective fraud risk assessments will require sound and thoughtful judgments that reflect a company's individual facts and circumstances.

Entity-Level Controls

Commenters requested further clarification of how entity-level controls can address financial reporting risks in a top-down, risk based approach.[88] Commenters also suggested that the guidance place more emphasis on entity-level controls given their pervasive impact on all other aspects of ICFR.[89]

In response to the comments received, we expanded the discussion of entity-level controls and how they relate to financial reporting elements. This discussion further clarifies that some entity-level controls, such as controls within the control environment, have an important, but indirect, effect on the likelihood that a misstatement will be prevented or detected on a timely basis. While these controls might affect the other controls management determines are necessary to address financial reporting risks for a financial reporting element, it is unlikely management will identify only this type of entity-level control as adequately addressing a financial reporting risk. Further, the guidance clarifies that some entity-level controls may be designed to identify possible breakdowns in lower-level controls, but not in a manner that would, by themselves, adequately address financial reporting risks. In these cases, management would identify the additional controls needed to adequately address financial reporting risks, which may include those that operate at the transaction or account balance level. Consistent with the proposal, management does not need to identify or evaluate additional controls relating to a financial reporting risk if it

[83] See, for example, letters from ACE, ACCA, BDO, Center, CSC, Deloitte & Touche LLP (Deloitte), GT, IMA, KPMG LLP (KPMG), M&P, Moody's, and PwC.

[84] See, for example, letters from BASF, BDO, and GT.

[85] See, for example, letter from Tatum LLC (Tatum).

[86] See, for example, letters from FEI CCR, P&G, and N. Stofberg.

[87] See, for example, letters from Center, GT, KPMG, and M&P.

[88] See, for example, letters from EY, Frank, MetLife, and UnumProvident.

[89] See, for example, letters from ACCA, ACE, Eli Lilly, European Association of Listed Companies (EALIC), and PwC.

determines that the risk is being adequately addressed by an entity-level control.

We have also revised the proposed guidance to further clarify that the controls management identifies in Section II.A.1 should include the entity-level and pervasive elements of its ICFR that are necessary to have a system of internal control that provides reasonable assurance as to the reliability of financial reporting. Management can use the existing control frameworks and related guidance to assist them in evaluating the adequacy of these aspects of their ICFR.

Information Technology General Controls

Commenters expressed concern that the proposal's guidance on IT general controls was too vague or that it lacked sufficient clarity [90] and requested further guidance and illustrative examples [91] to clarify the extent to which IT general controls are within the scope of the ICFR evaluation.[92] Commenters also suggested that the Commission directly incorporate the May 16, 2005 Staff Guidance [93] on IT general controls [94] and that we clarify that IT general controls alone, without consideration of application controls, will not sufficiently address the risk of material misstatement.[95] One commenter noted that providing such guidance could have the unintended consequence of setting a precedent for providing more detailed guidance in other areas of the evaluation.[96]

Commenters also suggested that we revise the proposal to clarify how a top-down approach considers IT general controls,[97] that we encourage a ''benchmarking'' approach for evaluating automated controls,[98] and that we permit companies who implement IT systems late in the year to do so while still being able to satisfy their ICFR responsibilities.[99]

We made several revisions to the proposed guidance based on the comment letters. We revised the proposal to explain that the identification of risks and controls within IT should be integral to, and not separate from, management's top-down, risk-based approach to evaluating ICFR and in determining the necessary supporting evidential matter. We clarified that controls which address financial reporting risks may be automated, dependent upon IT functionality, or require a combination of both manual and automated procedures and that IT general controls alone, without consideration of application controls, ordinarily do not adequately address financial reporting risks. We also incorporated guidance from the May 16, 2005 Staff Statement which explains that it is unnecessary to evaluate IT general controls that primarily pertain to efficiency or effectiveness of operations, but which are not relevant to addressing financial reporting risks.

We have declined to further specify categories or areas of IT general controls that will be relevant to the ICFR evaluation for all companies. We continue to believe that such determinations require consideration of each company's individual facts and circumstances. Moreover, we have concluded it is not necessary to include a discussion of a ''benchmarking'' approach to evaluating automated controls. The lack of such discussion in our guidance does not preclude management from taking such an approach if they believe it to be both efficient and effective.

Additionally, we did not revise the proposed guidance to discuss implementation of IT systems, or changes thereto, late in the year because we do not believe such decisions should be impacted by the requirement to evaluate and assess the effectiveness of ICFR. Even without the evaluation and assessment requirements, the implementation of an IT system late in the year does not change management's responsibility to maintain a system of internal control that provides reasonable assurance regarding the reliability of financial reporting. Allowing an exclusion from the evaluation for controls placed in operation late in the year could have the unintended consequence of negatively impacting the reliability of financial reporting. Management has the ability to mitigate the risk of material misstatement that arises from ineffective controls in a new IT system. For example, management may perform pre-implementation testing of the IT controls needed to adequately address financial reporting risks. Additionally, management may implement compensating controls, such as manual reconciliations and verification, until such time that management has concluded that the IT controls within the system are adequate. Accordingly, we do not believe it is necessary or appropriate to exclude new IT systems or changes to existing systems from the scope of the evaluation of ICFR.

E. Evaluating Evidence of the Operating Effectiveness of ICFR

1. Summary of the Proposal

Our proposal indicated that management should consider both the risk characteristics of the financial reporting elements to which the controls relate and the risk characteristics of the controls themselves (collectively, ICFR risk) in making judgments about the nature and extent of evidence necessary to provide a reasonable basis for the assessment of whether the operation of controls is effective. The proposal identified significant accounting estimates, related party transactions and critical accounting policies as examples of financial reporting areas that generally would be assessed as having a higher risk of misstatement and control failure. However, the proposed guidance recognizes that since not all controls have the same risk characteristics, when a combination of controls is required to adequately address the risks to a financial reporting element, management should analyze the risk characteristics of each control separately. Further, under the proposed guidance, when evaluating risks in multi-location environments, management should generally consider the risk characteristics of the controls related to each financial reporting element, rather than making a single judgment for all controls at a particular location when determining the sufficiency of evidence to support its assessment.

Our proposal indicated that the evidence of the operation of controls that management evaluates may come from a combination of on-going monitoring and direct testing and that management should vary the nature, timing and extent of these based on its assessment of the ICFR risk. Our proposal stated that this evidence would ordinarily cover a reasonable period of time during the year and include the fiscal year-end. The proposal also acknowledged that, in smaller companies, those responsible for assessing the effectiveness of ICFR may, through their on-going direct knowledge

[90] See, for example, letters from Aerospace Industries Association, MasterCard, and Nasdaq.

[91] See, for example, letter from Microsoft Corporation (MSFT).

[92] See, for example, letters from Faisal Danka, ISACA, MSFT, Rod Scott, and The Travelers Companies, Inc. (Travelers).

[93] Division of Corporation Finance and Office of the Chief Accountant: *Staff Statement on Management's Report on Internal Control Financial Reporting* (May 16, 2005), available at *http://www.sec.gov/spotlight/soxcom/.htm*.

[94] See, for example, letters from FEI CCR and P&G.

[95] See, for example, letter from IDW.

[96] See, for example, letter from ICAEW.

[97] See, for example, letters from Cardinal and ISACA.

[98] See, for example, letter from CSC.

[99] See, for example, letter from Chamber.

and supervision of the operation of controls (that is, daily interaction) have a reasonable basis to evaluate the effectiveness of some controls without performing direct tests specifically for purposes of the evaluation.

The proposal explained that the evidential matter constituting reasonable support for the assessment would generally include the basis for management's assessment and documentation of the evaluation methods and procedures for gathering and evaluating evidence. Additionally, the proposal indicated that the nature of the supporting evidential matter, including documentation, may take many forms and may vary based on management's assessment of ICFR risk. For example, management may determine that it is not necessary to maintain separate copies of the evidence evaluated if such evidence already exists in the company's books and records. The proposal also indicates that as the degree of complexity of the control, the level of judgment required to operate the control, and the risk of misstatement in the financial reporting element increase, management may determine that separate evidential matter supporting a control's operation should be maintained.

2. Comments on the Proposal and Revisions Made

The Commission received a number of comments on the proposed guidance for evaluating whether the operation of controls was effective. As discussed in Section III.B above, many of these commenters requested more examples or more detailed guidance. Other comments received related to the appropriateness of various ''rotational'' approaches to evaluating evidence of whether the operation of controls was effective; the nature of on-going monitoring activities, including self-assessments and daily interaction; the time period to be covered by evaluation procedures; and supporting evidential matter.

Rotational Approaches to Evaluating Evidence

Commenters requested that the guidance explicitly allow management to rotate its evaluation of evidence of the operation of controls and a variety of different approaches for doing so were suggested. These approaches included, for example, a rotational approach for lower risk controls,[100] a rotational approach in areas where management determines there are no changes in the controls since the previous assessment,[101] or a rotational approach where there is both lower risk and no changes in controls.[102] In addition, some suggested a ''benchmarking'' approach, similar to that used for IT controls, be allowed for non-IT controls.[103] Other commenters agreed with the proposal's requirement that management consider evidence of the operation of controls each year.[104] Others noted that while they believed it is appropriate for management to consider the results of its prior year assessments, the guidance should make it clear that the evaluation of operating effectiveness is an annual requirement.[105]

Other commenters raised the issue of a rotational approach specific to multi-location considerations. For example, commenters suggested that the guidance allow for rotation of locations based upon risk (for example, once every three years).[106] However, some commenters suggested that the risk-based approach provided in the proposed guidance would appropriately allow companies to vary testing in locations based more on risk than coverage, which would improve the efficiency of their assessment.[107]

After considering the comments, the Commission has retained the guidance substantially as proposed. We did not introduce a concept that allows management to eliminate from its annual evaluation those controls that are necessary to adequately address financial reporting risks. For example, management cannot decide to include controls for a particular location or process within the scope of its evaluation only once every three years or exclude controls from the scope of its evaluation based on prior year evaluation results. To have a reasonable basis for its assessment of the effectiveness of ICFR, management must have sufficient evidence supporting the operating effectiveness of all aspects of its ICFR as of the date of its assessment. The guidance provides a framework to assist management in making judgments regarding the nature, timing and extent of evidence needed to support its assessment. Management can use this framework to scale its evaluation methods and procedures in response to the risks associated with both the financial reporting elements and related controls in its particular facts and circumstances.

However, the guidance has been clarified to reflect that management's experience with a control's operation both during the year and as part of its prior year assessment(s) may influence its decisions regarding the risk that controls will fail to operate as designed. This, in turn, may have a corresponding impact on the evidence needed to support management's conclusion that controls operated effectively as of the date of management's assessment.

Nature of On-Going Monitoring Activities

Commenters expressed concern that, as defined in the proposal, some on-going monitoring activities would not be deemed to provide sufficient evidence.[108] Other commenters were concerned that the guidance placed too much emphasis on the amount of evidence that could be obtained from on-going monitoring activities and called for further examples of when they may provide sufficient evidence and when direct testing would be required.[109] With regard to self-assessments, commenters suggested that self-assessments can be an integral source of evidence when their effective operation is verified by direct testing over varying periods of time based on the manner in which the self-assessments were conducted and on the level of risk associated with the controls.[110] Other commenters requested the proposed guidance be revised to clarify how, based on the definitions provided, self-assessments differed from direct testing.[111]

Some commenters questioned the sufficiency of evidence that would result from management's daily interaction with controls and requested more specifics on when it would be appropriate as a source of evidence[112] and how management should demonstrate that its daily interaction with controls provided it with sufficient evidence to have a reasonable basis to

[100] See, for example, letters from CSC, EALIC, ING, MasterCard, and NYC Bar.

[101] See, for example, letters from P&G and Travelers.

[102] See, for example, letters from EEI and Supervalu.

[103] See, for example, letters from Eli Lilly and FEI CCR.

[104] See, for example, letters from CCMR, Deloitte, and KPMG.

[105] See, for example, letters from AFL-CIO, Center, CFA, Deloitte, and PwC.

[106] See, for example, letter from CSC.

[107] See, for example, letters from MSFT, New York State Society of Certified Public Accountants, and Plains Exploration & Production Company.

[108] See, for example, letters from BASF and Cees Klumper & Matthew Shepherd (C. Klumper & M. Shepherd).

[109] See, for example, letters from Center and EY.

[110] See, for example, letters from GT and C. Klumper & M. Shepherd.

[111] See, for example, letter from Cardinal.

[112] See, for example, letters from BDO, EY, Ohio, and Tatum.

assess whether the operation of controls was effective.[113]

Based on the feedback received, we modified the discussion of on-going monitoring activities, including self-assessments, and direct testing to clarify how the evidence obtained from each of the activities can vary. As commenters in this area noted, on-going monitoring, including self-assessments, encompasses a wide array of activities that can be performed by a variety of individuals within an organization. These individuals have varying degrees of objectivity, ranging from internal auditors to the personnel involved in business processes, and can include both those responsible for executing a control as well as those responsible for overseeing its effective operation. Because of the varying degrees of objectivity, the sufficiency of the evidence management obtains from on-going monitoring activities is determined by the nature of the activities (that is, what they entail and how they are performed).

We clarified the proposed guidance to indicate that when evaluating the objectivity of personnel, management is not required to make an absolute conclusion regarding objectivity, but rather should recognize that personnel will have varying degrees of objectivity based on, among other things, their job function, their relationship to the control being evaluated, and their level of authority and responsibility within the organization. Management should consider the ICFR risk of the controls when determining whether the objectivity of the personnel involved in the monitoring activities results in sufficient evidence. For example, for areas of high ICFR risk, management's on-going monitoring activities may provide sufficient evidence when the monitoring activities are carried out by individuals with a high degree of objectivity. However, when management's support includes evidence obtained from activities performed by individuals who are not highly objective, management would ordinarily supplement the evidence with some degree of direct testing by individuals who are independent from the operation of the control to corroborate the information from the monitoring activity.

With regard to requests for more guidance related to management's daily interaction, we have adopted the guidance substantially as proposed. We believe that in smaller companies, management's daily interaction with the operation of controls may provide it with sufficient evidence to assess whether controls are operating effectively. The guidance is not intended to limit management's flexibility with regard to the areas of ICFR where its interaction can provide it with sufficient evidence or the manner by which management obtains knowledge of the operation of the controls. However, as noted in the guidance, daily interaction as a source of evidence for the operation of controls applies to management who are responsible for assessing the effectiveness of ICFR and whose knowledge about the effective operation is gained from its on-going direct knowledge and direct supervision of controls. In addition, the evidence management maintains in support of its assessment should include the design of the controls that adequately address the financial reporting risks as well as how its interaction provides an adequate basis for its assessment of the effectiveness of ICFR.

Time Period Covered by Evaluation Procedures

Commenters requested that the guidance allow for, and encourage, management to gather evidence throughout the year to support its assessment in lieu of having to gather some evidence close to or as-of year-end.[114] These commenters believed that such guidance would encourage companies to better integrate their evaluation procedures into the normal activities of their daily operations, spread the effort more evenly throughout the year, and help reduce the strain on resources at year-end when company personnel are preparing the annual financial statements and complying with other financial reporting activities.

We agree with the comments received in this area with respect to allowing management the flexibility to gather evidence in support of its assessment during the year. Since management's assessment is performed as of the end of its fiscal year-end, the evidence management utilizes to support its assessment would ordinarily include a reasonable period of time during the year, including some evidence as of the date of its assessment. However, the proposal was not intended to limit management's flexibility to conduct its evaluation activities during the year. Rather, the proposed guidance was intended to provide management with the ability to perform a variety of activities covering periods of time that vary based on its assessment of risk in order to provide it with a sufficient basis for its evaluation. This could include, for example, a strategy that employs direct testing over a control during the year (but prior to year-end), that is supplemented with a self-assessment activity at year-end. As a result, we have adopted the guidance related to the period of time for which management should obtain evidence of the operation of controls substantially as proposed.

Supporting Evidential Matter

Commenters expressed support for the guidance in the proposal related to the supporting evidential matter and believed it would allow management to make better judgments and allow for sufficient flexibility to vary the nature and extent of evidence based on the company's particular facts and circumstances.[115] Other commenters observed that a certain level of documentation was required in order to facilitate an efficient and effective audit and suggested the guidance explicitly state this fact and/or clarify how the guidance for management was intended to interact with the requirements provided to auditors.[116] One commenter requested that we clarify our intention related to the audit committee's involvement in the review of evidential matter prepared by management in support of its assessment.[117]

After consideration of the comments, we are adopting the guidance substantially as proposed. We continue to believe that management should have considerable flexibility as to the nature and extent of the documentation it maintains to support its assessment, while at the same time maintaining sufficient evidence to provide reasonable support for its assessment. Providing specific guidelines and detailed examples of various types of documentation would potentially limit the flexibility we intended to afford management.

With respect to the concerns raised regarding the interaction of the proposed guidance and the audit requirements, we determined that no changes were necessary. Similar to an audit of the financial statements, the nature and extent of evidential matter maintained by management may impact how an auditor conducts the audit and the efficiency of the audit. We believe

[113] See, for example, letter from Ohio.

[114] See, for example, letters from Eli Lilly, The Financial Services Roundtable, and Neenah Paper, Inc.

[115] See, for example, letters from BR, EY, Hudson Financial Solutions (HFS), and MSFT.

[116] See, for example, letters from Center, Deloitte, EY, GT, M&P, MetLife, MDFC, PwC, and N. Stofberg.

[117] See, for example, letter from ABA.

that the most efficient implementation by management and the auditor is achieved when flexibility exists to determine the appropriate manner by which to complete their respective tasks. However, we also believe that the Proposed Auditing Standard allows auditors sufficient flexibility to consider various types of evidence utilized by management. The audit standard allows auditors to adjust their approach in certain circumstances, if necessary, so that audit procedures should not place any undue burden or expense on management's evaluation process.

F. Evaluation of Control Deficiencies

1. Summary of the Proposal

The proposal directed management to evaluate each control deficiency that comes to its attention in order to determine whether the deficiency, or combination of control deficiencies, is a material weakness. The proposal defined a material weakness as a deficiency, or combination of deficiencies, in ICFR such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis by the company's ICFR. The proposal contained guidance on the aggregation of deficiencies by indicating that multiple control deficiencies that affect the same financial reporting element increase the likelihood of misstatement and may, in combination, constitute a material weakness, even though such deficiencies may be individually insignificant. The proposal also highlighted four circumstances that were strong indicators that a material weakness in ICFR existed. In summary, the following four items were listed:

- An ineffective control environment, including identification of fraud of any magnitude on the part of senior management; significant deficiencies that remain unaddressed after some reasonable period of time; and ineffective oversight by the audit committee (or entire board of directors if no audit committee exists).
- Restatement of previously issued financial statements to reflect the correction of a material misstatement.
- Identification by the auditor of a material misstatement of financial statements in the current period under circumstances that indicate the misstatement would not have been discovered by the company's ICFR.
- For complex entities in highly regulated industries, an ineffective regulatory compliance function.

2. Comments on the Proposal and Revisions Made

Definition of Material Weakness

Commenters expressed concern about differences between our proposed definition of material weakness and that proposed by the PCAOB in its Proposed Auditing Standard and requested that the two definitions be aligned.[118] Commenters provided feedback on the reasonably possible threshold for determining the likelihood of a potential material misstatement as well as the reference to interim financial statements for determining whether a potential misstatement could be material. Commenters also suggested that a single definition of material weakness be established for use by both auditors and management and that definition be established by the SEC in its rules.[119] Based on comments on the proposal, we are amending Exchange Act Rule 12b–2 and Rule 1–02 of Regulation S–X to define the term material weakness. Further discussion and analysis of the definition of material weakness and commenter feedback can be found in that rule release.[120]

Strong Indicators of a Material Weakness

Commenters noted there were differences in the list of strong indicators included in the proposal and the list of strong indicators included in the Proposed Auditing Standard, raising concern that the failure of the two proposals to provide similar guidance would cause unnecessary confusion between management and auditors.[121] Commenters also provided suggested changes, additions or deletions to circumstances that were included on the list of strong indicators. For example, commenters raised questions about the ''identification of fraud of any magnitude on the part of senior management,'' questioning the appropriateness of the term ''of any magnitude'' or which individuals were encompassed in the term ''senior management.'' [122] Commenters also felt the Commission's proposed list of indicators should be expanded to include the indicator relating to an ineffective internal audit function or risk assessment function that was included in the Proposed Auditing Standard.[123] One commenter felt that the list of strong indicators needed to be made more specific, and should include more illustrative examples.[124] Another commenter stated that the indicator of ''significant deficiencies that have been identified and remain unaddressed after some reasonable period of time'' should be clarified to mean unremediated deficiencies.[125] Other commenters suggested that the list of strong indicators be eliminated completely, stating that designating these items as strong indicators creates a presumption that such items are, in fact, material weaknesses, and may impede the use of judgment to properly evaluate the identified control deficiency in light of the individual facts and circumstances.[126] Commenters also felt the Commission should clearly indicate that a company may determine that no deficiency exists despite the fact that one of the identified strong indicators was present.[127]

After consideration of the comments, we have decided to modify the proposed guidance. We believe judgment is imperative in determining whether a deficiency is a material weakness and that the guidance should encourage management to use that judgment. As a result, we have modified the guidance to emphasize that the evaluation of control deficiencies requires the consideration of all of the relevant facts and circumstances. We agreed with the concerns that an overly detailed list may create a list of *de facto* material weaknesses or inappropriately suggest that identified control deficiencies not included in the list are of lesser importance. At the same time, however, we continue to believe that highlighting certain circumstances that are indicative of a material weakness provides practical information for management. As a result, rather than referring to ''strong indicators,'' the final guidance refers simply to ''indicators.'' This change should further emphasize that the presence of one of the indicators does not mandate a conclusion that a material weakness exists. Rather management should apply professional judgment in this area. These examples include indicators related to the results of the financial statement audit, such as material audit adjustments and restatements, and

[118] See, for example, letters from EEI, FEI CCR, FEI SPCTF, ICAEW, N. Stofberg, and SVLG.

[119] See, for example, letters from FEE and ICAEW.

[120] Release No. 34–55928.

[121] See, for example, letters from BDO, BR, Center, Cleary, CSC, Deloitte, KPMG, M&P, and Schneider Downs & Co., Inc. (Schneider).

[122] See, for example, letters from 100 Group, Eli Lilly, FEI CCR, and P&G.

[123] See, for example, letters from BR, Crowe Chizek & Company LLC (Crowe), Deloitte, and M&P.

[124] See, for example, letter from Chamber.

[125] See, for example, letter from EEI.

[126] See, for example, letters from Cleary, Institute of Internal Auditors (IIA), and NYC Bar.

[127] See, for example, letters from Chamber, Cleary, CSC, PPL, and Schneider.

indicators related to the overall evaluation of the company's oversight of financial reporting, such as the effectiveness of the audit committee and incidences of fraud among senior management. These examples are by no means an exhaustive list. For example, under COSO, risk assessment and monitoring are two of the five components of an effective system of internal control. If management concludes that an internal control component is not effective, or if required entity-level or pervasive elements of ICFR are not effective, it is likely that internal control is not effective.

Lastly, we agreed with commenters that it is appropriate for the Commission's guidance in this area to mirror the PCAOB's auditing standard. As a result, we have worked with the PCAOB in reaching conclusions regarding the guidance in this area, and we anticipate the PCAOB's auditing standard will align with our final management guidance.

G. Management Reporting and Disclosure

Comment letters expressed various viewpoints regarding the information management provides as part of its report on the effectiveness of ICFR. For example, commenters raised concerns regarding the ''point in time'' assessment and suggested various alternative approaches.[128] Commenters also made suggestions regarding the disclosures management provides when a material weakness has occurred. Certain commenters felt the suggested disclosures indicated in the proposing release should be mandatory,[129] while other commenters wanted the Commission to specify where in the Form 10-K management must provide its disclosures.[130] Commenters also requested that the Commission include in its release additional possible disclosures for consideration by management to include in its report.[131]

In addition, commenters expressed concerns regarding the language in the Proposing Release with respect to management's ability to determine that ICFR is ineffective due solely to, and only to the extent of, the identified material weakness(es). Some commenters felt that this language was essentially the same as a qualified opinion, which is prohibited by the guidance,[132] while two others stated that the Commission needed to provide additional guidance around the circumstances under which this approach would be appropriate.[133]

Based on the feedback we received, we have eliminated this from the final interpretive guidance and revised the proposed guidance to simply state that management may not state that the company's ICFR is effective. However, management may state that controls are ineffective for specific reasons.

Additionally, certain of the requests received seemed inconsistent with the statutory obligation. For example, Section 404(a)(2) of Sarbanes-Oxley requires that management perform the assessment as of the end of its most recent fiscal year. As a result, we do not believe any further changes to the proposed guidance around management's expression of its assessment of the effectiveness of ICFR are necessary.

H. Previous Staff Guidance and Staff Frequently Asked Questions

Commenters raised questions regarding the status of guidance previously issued by the Commission and its staff, on May 16, 2005,[134] as well as the Frequently Asked Questions (''FAQs'').[135] Some commenters requested the FAQs be retained in their entirety,[136] while others requested that some particular FAQs be retained.[137] As we indicated in the proposed guidance, the May 2005 guidance remains relevant. Additionally, we have instructed the staff to review the FAQs and, as a result of the final issuance of this guidance, update them as appropriate.

I. Foreign Private Issuers

The Commission received comments directed towards the information included in the proposed guidance related to foreign private issuers. While three commenters noted that no additional guidance for foreign private issuers was necessary,[138] other commenters suggested changes. Commenters raised concerns regarding potential duplicative efforts and costs foreign registrants are subject to, as a result of similar regulations in their local jurisdictions.[139] These commenters requested that the Commission attempt to minimize or remove any duplicative requirements, with some requesting the Commission exempt foreign registrants entirely from the ICFR reporting requirements if the registrant was subject to similar regulations in their home country. Other commenters raised concerns relating to the unique challenges that foreign registrants face in evaluating their ICFR, including language and cultural differences and international legal differences.[140]

Commenters also made suggestions regarding how the reconciliation to U.S. GAAP should be handled in the evaluation of ICFR. Certain commenters expressed support for the Commission's position that foreign private issuers should scope their evaluation effort based on the financial statements prepared in accordance with home country GAAP, rather than based on the reconciliation to U.S. GAAP.[141] However, other commenters requested that the Commission exempt the reconciliation to U.S. GAAP from the scope of the evaluation altogether,[142] while others sought further clarification as to whether and how the reconciliation was included in the evaluation of ICFR,[143] with one commenter suggesting the Commission staff publish additional Frequently Asked Questions to address any implementation issues.[144] One commenter requested the Commission exclude from the evaluation process those financial statement disclosures that are required by home country GAAP but not under U.S. GAAP to minimize the differences in the ICFR evaluation efforts between U.S. registrants and foreign filers as much as possible.[145]

[128] See, for example, letters from BHP Billiton Limited, Eli Lilly, and IIA.

[129] See, for example, letters from HFS, IDW, and Tatum.

[130] See, for example, letters from Crowe and KPMG.

[131] See, for example, letters from PCG Worldwide Limited and PepsiCo, Inc. (Pepsi).

[132] See, for example, letters from BDO and CFA.

[133] See, for example, letters from Crowe and Deloitte.

[134] *Commission Statement on Implementation of Internal Control Reporting Requirements*, Press Release No. 2005–74 (May 16, 2005); Division of Corporation Finance and Office of the Chief Accountant: *Staff Statement on Management's Report on Internal Control Financial Reporting* (May 16, 2005), available at *http://www.sec.gov/spotlight/soxcom/.htm.*

[135] Office of the Chief Accountant and Division of Corporation Finance: *Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports Frequently Asked Questions* (revised Oct. 6, 2004), available at *http://www.sec.gov/info/accountants/controlfaq1004.htm.*

[136] See, for example, letters from BP p.l.c. (BP), GT, IIA, ISACA, MSFT, and Tatum.

[137] See, for example, letters from BDO, EY, KPMG, and Stantec Inc.

[138] See, for example, letters from BP, Manulife, and Pepsi.

[139] See, for example, letters from 100 Group, Banco Itaú Holding Financeira SA, CCMR, Eric Fandrich, and FEI CCR.

[140] See, for example, letters from IIA and GT.

[141] See, for example, letters from 100 Group, BDO, and ICAEW.

[142] See, for example, letters from CCMR, Cleary, EALIC, and NYC Bar.

[143] See, for example, letters from Deloitte, EY, KPMG, and N. Stofberg.

[144] See, for example, letter from Ohio.

[145] See, for example, letter from ING.

After considering the comments received, the Commission has determined not to exempt foreign registrants from the ICFR reporting requirements, regardless of whether they are subject to similar home country requirements. The Commission's requirement for all issuers to complete an evaluation of ICFR is not derived from the Commission's Interpretive Guidance for Management; this requirement has been established by Congress. Further, the Commission does not believe it is appropriate to exclude the U.S. GAAP reconciliation from the scope of the evaluation as long as it is a required element of the financial statements. Currently, however, the Commission is evaluating, as part of another project, the acceptance of International Financial Reporting Standards (''IFRS'') as published by the International Accounting Standards Board (''IASB'') without reconciliation to U.S. GAAP.[146]

In light of the comment letters, the Commission realizes that there are certain implementation concerns and issues that are unique to foreign private issuers. As a result, the Commission has instructed the staff to consider whether these items should be addressed in a Frequently Asked Questions document.

List of Subjects in 17 CFR Part 241

Securities.

[146] In a press release on April 24, 2007, the Commission announced its next steps pertaining to acceptance of IFRS without reconciliation to U.S. GAAP. In that press release, the Commission stated that it anticipates issuing a Proposing Release in summer 2007 that will request comments on proposed changes to the Commission's rules which would allow the use of IFRS, as published by the IASB, without reconciliation to U.S. GAAP in financial reports filed by foreign private issuers that are registered with the Commission. The press release is available at *http://www.sec.gov/news/press/2007/2007–72.htm.*

Text of Amendments

■ For the reasons set out in the preamble, the Commission is amending Title 17, chapter II, of the Code of Federal Regulations as follows:

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ Part 241 is amended by adding Release No. 34–55929 and the release date of June 20, 2007 to the list of interpretative releases.

Dated: June 20, 2007.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E7–12299 Filed 6–26–07; 8:45 am]

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Wednesday,
June 27, 2007

Part IV

Securities and Exchange Commission

17 CFR Parts 210 and 240
Definition of a Significant Deficiency; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 240

[Release Nos. 33–8811; 34–55930; File No. S7–24–06]

RIN 3235–AJ58

Definition of a Significant Deficiency

AGENCY: Securities and Exchange Commission.

ACTION: Request for additional comment.

SUMMARY: We are requesting additional comment on the definition of the term ''significant deficiency.'' Because this term is used in the Commission's rules implementing Section 302 and Section 404 of the Sarbanes-Oxley Act, we believe that a definition of this term should also be in the Commission's rules, in addition to being in the auditing standards.

DATES: *Comment Date:* Comments should be received on or before July 18, 2007.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–24–06 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–24–06. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site at (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: N. Sean Harrison, Special Counsel, Division of Corporation Finance, at (202) 551–3430, or Josh K. Jones, Professional Accounting Fellow, Office of the Chief Accountant, at (202) 551–5300, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are soliciting additional comment on Rule 12b–2[1] under the Securities Exchange Act of 1934 (the ''Exchange Act'')[2] and Rule 1–02[3] of Regulation S–X.[4]

I. Background

The Commission's rules implementing the requirements of the Sarbanes-Oxley Act of 2002 (''Sarbanes-Oxley'')[5] require management to disclose to both the audit committee and the external auditor all ''material weaknesses'' and ''significant deficiencies'' identified based upon management's evaluation.[6] In adopting rules to implement these sections of Sarbanes-Oxley, the Commission indicated that these terms had the same meaning for purposes of the Commission's rules as they had under generally accepted auditing standards and therefore, did not specifically define them. Subsequent to the Commission's adoption of rules implementing Sections 302 and 404 of Sarbanes-Oxley, the Public Company Accounting Oversight Board (''PCAOB'') adopted Auditing Standard No. 2,[7] which revised these definitions. Since the Commission's intention in the Adopting Release was to refer to the definition used by auditors of public companies, the Commission staff issued an interpretation indicating that the PCAOB's definition of these terms would apply to the Section 404 rules issued by the Commission.[8]

More recently, as part of the Commission's project providing more guidance to management on completing its evaluation and assessment of internal control over financial reporting (''ICFR'') in accordance with Section 404 of Sarbanes-Oxley, the Commission initially sought comment on both the terms ''significant deficiency'' and ''material weakness'' in its concept release on ICFR requirements,[9] and then proposed and adopted a definition for only the term ''material weakness.''[10] As part of that rulemaking process, commenters pointed out that while the December proposing release[11] referenced significant deficiencies, the Commission did not include a definition of significant deficiency within the proposal.[12] Certain commenters indicated that the Commission should include a definition of significant deficiency in the Interpretive Guidance.[13]

II. Discussion

As part of the Interpretive Guidance rulemaking process, the Commission determined that it was appropriate for the Commission to include in its rules definitions for certain integral terms associated with the Commission's rules implementing Sarbanes-Oxley. Further, in light of the comments received in response to the proposed Interpretive Guidance, and because Commission rules implementing Section 302(a) of Sarbanes-Oxley require that management communicate significant deficiencies to the audit committee and the external auditors, the Commission has decided to solicit additional comment on a definition for ''significant deficiency.'' As a result, we are soliciting additional comment on amending Exchange Act Rule 12b–2 and Rule 1–02 of Regulation S–X to define the term.

The purpose of management's obligations with respect to significant deficiencies within the Commission's rules is to disclose those matters relating to ICFR that are of sufficient importance that they should be reported to the external auditor and to the audit committee so that these parties can more effectively carry out their respective responsibilities with regard to the company's financial reporting, but which do not require disclosure to investors. Including a definition of significant deficiency in Commission rules, in combination with the

[1] 17 CFR 240.12b–2.

[2] 15 U.S.C. 78a *et seq.*

[3] 17 CFR 210.1–02.

[4] 17 CFR 210.1–01 *et seq.*

[5] 15 U.S.C. 7262.

[6] Release No. 33–8238 (Jun. 5, 2003) [68 FR 36636, Jun. 18, 2003], referred to herein as the ''Adopting Release.''

[7] *An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements.*

[8] See, for example, question 13 of Office of the Chief Accountant and Division of Corporation Finance: *Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports Frequently Asked Questions* (revised Oct. 6, 2004), available at *http://www.sec.gov/info/accountants/controlfaq1004.htm.*

[9] Release No. 34–54122 (Jul. 11, 2006) [71 FR 40866, Jul. 18, 2006] available at *http://www.sec.gov/rules/concept/2006/34–54122.pdf.*

[10] Release No. 34–55929 (Jun. 20, 2007), and referred to herein as the ''Interpretive Guidance.''

[11] Release Nos. 33–8762; 34–54976 (Dec. 20, 2006) [71 FR 77635, Dec. 27, 2006].

[12] See, for example, letters from Cardinal Health, Inc. (Cardinal), Edison Electric Institute, and Protiviti.

[13] See, for example, letters from Cardinal and Protiviti.

definition of material weakness, will provide a useful complement to the Commission's Interpretive Guidance by enabling management to refer to Commission rules and guidance for information on the meaning of these terms rather than the referring to the auditing standards.

In developing the definition, we considered comments received in response to the PCAOB's proposed auditing standard for audits of internal control over financial reporting. In its proposed auditing standard, the PCAOB proposed to define significant deficiency as ''a control deficiency, or combination of control deficiencies such that there is a reasonable possibility that a significant misstatement of the company's annual or interim financial statements will not be prevented or detected.'' [14] Further, a significant misstatement was defined as ''a misstatement that is less than material yet important enough to merit attention by those responsible for oversight of the company's financial reporting.'' In response to the comments received on their proposal, the PCAOB decided to modify their proposed definition in order to focus the auditor on the communication requirement surrounding the term ''significant deficiency'' and to provide clarity that auditors are not required to scope their audits to search for deficiencies that are less severe than a material weakness. We believe that the focus of the term ''significant deficiency'' should be the underlying communication requirement that results between management, audit committees and independent auditors. As such, we are soliciting comment on a definition that focuses squarely on matters that are important enough to merit attention by those responsible for oversight of the company's financial reporting. Significant deficiency would be defined as ''a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those responsible for oversight of a registrant's financial reporting.'' [15]

The framework for the definition of significant deficiency varies from that recently adopted for ''material weakness.'' Unlike the term ''material weakness,'' we do not believe it is necessary for the definition of significant deficiency to explicitly include a likelihood component (that is, reasonable possibility) and that focusing on matters that are important enough to merit attention will allow for sufficient and appropriate judgment for management to determine the deficiencies that should be reported to the auditor and the audit committee.

III. Request for Comment

We request additional comment on defining the term ''significant deficiency.'' In addition to general comment, we encourage comments to address the following specific questions:

- Would the definition of a ''significant deficiency'' facilitate more effective and efficient certification of quarterly and annual reports if it were defined as discussed above?
- Conversely, should the definition of ''significant deficiency'' include a likelihood component or other specific criteria? If so, should we align such a definition with the PCAOB's auditing standard, and how?
- We do not anticipate that the definition will impact the amount of time it takes for management to evaluate whether identified deficiencies are significant deficiencies, nor do we anticipate that this definition will affect any existing collection of information. However, are there any additional costs or burdens involved in evaluating whether identified deficiencies meet the definition of significant deficiency? If so, what are the types of costs, and the anticipated amounts? In what way can the definition be further modified to mitigate such costs while still appropriately describing deficiencies that should be disclosed to audit committees and auditors?
- We believe one of the benefits of the definition is that it focuses on the desired result of identifying matters that are important enough to merit attention, which will allow management to use sufficient and appropriate judgment to determine the deficiencies that should be reported to the auditor and the audit committee while allowing management to use its judgment to determine what those matters are. Are there additional potential benefits we have not considered? Additionally, a potential consequence of the definition is that, due to the flexibility provided in the definition, there may be less comparability among companies in terms of what management determines is a significant deficiency. Is this accurate? Are there other potential costs or burdens? How should we mitigate such costs or burdens?
- Is there any special impact of the definition of significant deficiency on smaller public companies? If so, what is that impact and how should we address it?

By the Commission.

Dated: June 20, 2007.

Nancy M. Morris,

Secretary.

[FR Doc. E7–12300 Filed 6–26–07; 8:45 am]

BILLING CODE 8010–01–P

[14] See PCAOB Proposed Auditing Standard, *An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements and Related Other Proposals* (Release Number 2006–007, Dec. 19, 2006).

[15] This definition of ''significant deficiency'' is also used in Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That is Integrated with An Audit of Financial Statements*, which was approved by the PCAOB on May 24, 2007.

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LIST OF PUBLIC LAWS

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S. 676/P.L. 110–38

To provide that the Executive Director of the Inter-American Development Bank or the Alternate Executive Director of the Inter-American Development Bank may serve on the Board of Directors of the Inter-American Foundation. (June 21, 2007; 121 Stat. 230)

S. 1537/P.L. 110–39

To authorize the transfer of certain funds from the Senate Gift Shop Revolving Fund to the Senate Employee Child Care Center. (June 21, 2007; 121 Stat. 231)

Last List June 21, 2007

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